COMMITTEE ON FOREIGN AFFAIRS
COMMITTEE ON FOREIGN RELATIONS

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AUGUST 1986

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U.S. SENATE

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FOREWORD

This volume of treaties and related material is part of a three volume set of laws and related material frequently referred to by the Committees on Foreign Affairs of the House of Representatives and Foreign Relations of the Senate, amended to date and annotated to show pertinent history or cross references.

Volumes I and II contain legislation and related material and is republished with amendments and additions at the end of each annual session of Congress. Volume III which contains treaties and related material will not be revised every year, but only as necessary.

This year, volume III has been revised for the first time since 1980.

We wish to express our appreciation to Raphael Perl of the Foreign Affairs and National Defense Division of the Congressional Research Service of the Library of Congress who prepared this year's compilation with the assistance of Winston Woodland.

DANTE B. FASCELL,

Chairman, Committee on Foreign Affairs.

RICHARD G. LUGAR,

Chairman, Committee on Foreign Relations.

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IV

EXPLANATORY NOTE

All treaties included in this volume, except as noted below, are currently in force. The texts of the treaties have been codified, with footnoting, to show them in amended form. Treaties included in the volume but not presently in force for the United States are the Convention Relating to the Status of Refugees on page 179, the Treaty for the Prohibition of Nuclear Weapons in Latin America with Additional Protocol on page 47, and the Interim Agreement on Certain Measures With Respect to the Limitation of Strategic Offensive Arms on page 76. The Senate's Resolution of Ratification of the Convention on the Prevention and Punishment of the Crime of Genocide, provides that the Convention not be ratified by the President until implementing legislation has been enacted. As of June 1986, no such implementing legislation had been passed. All other material in this volume is in force as of January 1, 1986.

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ABBREVIATIONS

Bevans	Treaties and Other International Agreements of the United States of America, 1776–1949, compiled under the direction of Charles I. Bevans.
CFR	Code of Federal Regulations.
EAS	Executive Agreement Series.
F.R	Federal Register.
LNTS	League of Nations Treaty Series.
I Malloy, II Malloy	Treaties, Conventions, International Acts, Protocols, and Agreements Between the United States of America and Other Powers, 1776–1909, compiled under the direction of the United States Senate by William M. Malloy.
Stat	United States Statutes at Large.
TIAS	Treaties and Other International Acts Series.
TS	Treaty Series.
UNTS	United Nations Treaty Series.
U.S.C	United States Code.
UST	United States Treaties and Other International Agreements.

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CONTENTS

Page

FOREWORD III

EXPLANATORY NOTE V

ABBREVIATIONS VII

A. FOREIGN ASSISTANCE (See Volume I):

B. AGRICULTURAL COMMODITIES 3

1. Agreement Establishing the International Fund for Agricultural Development 5

C. THE PEACE CORPS (See Volume I):

D. ARMS CONTROL AND DISARMAMENT 29

1. Treaties and Agreements 31

E. DEPARTMENT OF STATE 107

1. State Department Procedures on Treaties and Other International Agreements (partial text of circular 175) 109
2. Organization and Administration 132
3. Passport Regulations 138
4. Regulations of the Secretary of State (Acceptance of Gifts and Decorations from Foreign Governments) 166
5. Migration and Refugee Assistance 174

F. INFORMATION AND EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS 197

1. United States Information and Educational Exchange Related Materials ... 199
2. Exchange of Materials and Objects 205

G. FOREIGN ECONOMIC POLICY: TARIFF AND TRADE LAWS 221

1. International Trade Functions 223
2. Hostage Return and Economic Relations with Iran 237
3. The General Agreement on Tariffs and Trade 246
4. International Wheat Agreement 329

H. FINANCIAL INSTITUTIONS 361

1. International Monetary Fund 363
2. International Bank for Reconstruction and Development (Amended Articles of Agreement) 433
3. International Finance Corporation (Amended Articles of Agreement) 458
4. Inter-American Development Bank (Amended Agreement Establishing the Bank) 475
6. International Development Association (Articles of Agreement) 513
5. Inter-American Investment Corporation (Articles of Agreement) 533
7. Asian Development Bank (Articles of Agreement) 550
8. African Development Fund (Agreement Establishing the Fund) 584
9. Settlement of Investment Disputes 611

I. ENERGY AND NATURAL RESOURCES 631

1. Agreement on an International Energy Program 633
2. Export and Import of Nuclear Equipment and Material Regulations 658
3. Procedures Established Pursuant to the Nuclear Non-Proliferation Act of 1978 692

J. UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS 705

1. Charter of the United Nations (amended) 707
2. Statute of the International Court of Justice 732
3. Agreement Between the United Nations and the United States of America Regarding the Headquarters of the United Nations (amended) 749
4. Convention on Privileges and Immunities of the United Nations (with reservation) 761
5. Acts of Terrorism and Crimes Against Internationally Protected Persons 770
6. Universal Declaration of Human Rights 780
7. Convention on the Prevention and Punishment of the Crime of Genocide 785

K. WAR POWERS, COLLECTIVE SECURITY TREATIES, AND RELATED MATERIALS 793

1. Presidential Proclamation 2914 (Proclaiming the Existence of a National Emergency) 795
2. Latin America 797
3. North Atlantic Treaty (amended) 856
4. Mutual Defense Treaty Between the United States of America and the Republic of the Philippines 861
5. Security Treaty Between Australia, New Zealand, and the United States of America 863
6. Mutual Defense Treaty Between the United States of America and the Republic of Korea (with understanding) 866
7. Southeast Asia Collective Defense and Protocol Thereto (with understanding) 868
8. Treaty of Mutual Cooperation and Security Between the United States of America and Japan 872
9. Middle East Resolutions and Related Material 879
10. Panama Canal Treaties and Related Material 883

L. LAW OF THE SEAS AND SELECTED MARITIME LEGISLATION 1003

1. Law of the Seas 1005

M. AVIATION AND SPACE 1057

1. Convention for the Suppression of Unlawful Seizure of Aircraft 1059
2. Treaty on Outer Space 1064
3. Astronaut Assistance and Return Agreement 1070
4. Convention on International Liability for Damage Caused by Space Objects 1074

INDEX 1085

A. FOREIGN ASSISTANCE

(SEE VOLUME I FOR ALL MATERIAL ON THIS SUBJECT)

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2

B. AGRICULTURAL COMMODITIES

CONTENTS

Page

1. Agreement Establishing the International Fund for Agricultural Development 5

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1. Agreement Establishing the International Fund for Agricultural Development[1]

Done at Rome June 13, 1976; Signed by the President August 15, 1977; Instrument of acceptance deposited October 4, 1977; Entered into force November 30, 1977

PREAMBLE

Recognizing that the continuing food problem of the world is afflicting a large segment of the people of the developing countries and is jeopardizing the most fundamental principles and values associated with the right to life and human dignity;

Considering the need to improve the conditions of life in the developing countries and to promote socio-economic development within the context of the priorities and objectives of the developing countries, giving due regard to both economic and social benefits;

Bearing in mind the responsibility of the Food and Agriculture Organization of the United Nations within the United Nations system, to assist the efforts of developing countries to increase food and agricultural production, as well as that organization's technical competence and experience in this field;

Conscious of the goals and objectives of the International Development Strategy for the Second United Nations Development Decade and especially the need to spread the benefits of assistance to all;

Bearing in mind paragraph (f) of part 2 ("Food") of Section I of General Assembly resolution 3202 (S–VI) on the Programme of Action on the Establishment of a new International Economic Order;

Bearing in mind also the need for effecting transfer of technology for food and agricultural development and Section V ("Food and Agriculture") of General Assembly resolution 3362 (S–VII) on development and international economic co-operation, with particular reference to paragraph 6 thereof regarding the establishment of an International Fund for Agricultural Development;

Recalling paragraph 13 of General Assembly resolution 3343 (XXIX) and resolutions I and II of the World Food Conference on the objectives and strategies of food production and on the priorities for agricultural and rural development;

Recalling resolution XIII of the World Food Conference which recognized:

(i) the need for a substantial increase in investment in agriculture for increasing food and agricultural production in the developing countries;

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[1] 28 UST 8435; TIAS 8765.

(ii) that provision of an adequate supply and proper utilization of food are the common responsibility of all members of the international community, and

(iii) that the prospects of the world food situation call for urgent and co-ordinated measures by all countries;

and which resolved:

that an International Fund for Agricultural Development should be established immediately to finance agricultural development projects primarily for food production in the developing countries;

The Contracting Parties have agreed to establish the International Fund for Agricultural Development, which shall be governed by the following provisions:

ARTICLE 1

DEFINITIONS

For the purposes of this Agreement the terms set out below shall have the following meaning, unless the context otherwise requires:

(a) "Fund" shall mean the International Fund for Agricultural Development;

(b) "food production" shall mean the production of food including the development of fisheries and livestock;

(c) "State" shall mean any State, or any grouping of States eligible for membership of the Fund in accordance with Section 1(*b*) of Article 3;

(d) "freely convertible currency" shall mean:

(i) currency of a Member which the Fund determines, after consultation with the International Monetary Fund, is adequately convertible into the currencies of other Members for the purposes of the Fund's operations; or

(ii) currency of a Member which such Member agrees, on terms satisfactory to the Fund, to exchange for the currencies of other Members for the purposes of the Fund's operations.

"Currency of a Member" shall, in respect of a Member that is a grouping of States, mean the currency of any member of such grouping;

(e) "Governor" shall mean a person whom a Member has designated as its principal representative at a session of the Governing Council;

(f) "votes cast" shall mean affirmative and negative votes.

ARTICLE 2

OBJECTIVE AND FUNCTIONS

The objective of the Fund shall be to mobilize additional resources to be made available on concessional terms for agricultural development in developing Member States. In fulfilling this objective the Fund shall provide financing primarily for projects and programmes specifically designed to introduce, expand or improve food production systems and to strengthen related policies and institutions within the framework of national priorities and strategies, taking into consideration: the need to increase food production in the poorest food deficit countries; the potential for increasing food production in other developing countries; and the importance of improving the nutritional level of the poorest populations in developing countries and the conditions of their lives.

ARTICLE 3

MEMBERSHIP

Section 1—Eligibility for membership

(a) Membership of the Fund shall be open to any State member of the United Nations or of any of its specialized agencies, or of the International Atomic Energy Agency.

(b) Membership shall also be open to any grouping of States whose members have delegated to it powers in fields falling within the competence of the Fund, and which is able to fulfill all the obligations of a Member of the Fund.

Section 2—Original Members and non-original Members

(a) Original Members of the Fund shall be those States listed in Schedule I, which forms an integral part of this Agreement, that become parties to this Agreement in accordance with Section 1(*b*) of Article 13.

(b) Non-original Members of the Fund shall be those other States that, after approval of their membership by the Governing Council, become parties to this Agreement in accordance with Section 1(*c*) of Article 13.

Section 3—Classification of Members

(a) Original Members shall be classified in one of three categories: I, II or III as set forth in Schedule I to this Agreement. Non-original Members shall be classified by the Governing Council, by a two-thirds majority of the total number of votes, with the concurrence of such Members, at the time of approval of their membership.

(b) The classification of a Member may be altered by the Governing Council, by a two-thirds majority of the total number of votes, with the concurrence of that Member.

Section 4—Limitation of liability

No Member shall be liable, by reason of its membership, for acts or obligations of the Fund.

ARTICLE 4

RESOURCES

Section 1—Resources of the Fund

The resources of the Fund shall consist of:

(i) initial contributions;

(ii) additional contributions;

(iii) special contributions from non-member States and from other sources;

(iv) funds derived from operations or otherwise accruing to the Fund.

Section 2—Initial contributions

(a) Each original Member in category I or II shall, and any original Member in category III may, contribute to the initial resources of the Fund the amount expressed in the currency specified in the instrument of ratification, acceptance, approval or accession deposited by that State pursuant to Section 1(b) of Article 13.

(b) Each non-original Member in category I or II shall, and any non-original Member in category III may, contribute to the initial resources of the Fund an amount agreed between the Governing Council and that Member at the time of the approval of its membership.

(c) The initial contribution of each Member shall be due and payable in the forms set forth in Section 5 (b) and (c) of this Article, either in a single sum or, at the option of the Member, in three equal annual instalments. The single sum or the first annual instalment shall be due on the thirtieth day after this Agreement enters into force with respect to that Member; and second and third instalments shall be due on the first and on the second anniversary of the date on which the first instalment was due.

Section 3—Additional contributions

In order to assure continuity in the operations of the Fund, the Governing Council shall periodically, at such intervals as it deems appropriate, review the adequacy of the resources available to the Fund; the first such review shall take place not later than three years after the Fund commences operations. If the Governing Council, as a result of such a review, deems it necessary or desirable, it may invite Members to make additional contributions to the resources of the Fund on terms and conditions consistent with Section 5 of this Article. Decisions under this Section shall be taken by a two-thirds majority of the total number of votes.

Section 4—Increases in contributions

The Governing Council may authorize, at any time, a Member to increase the amount of any of its contributions.

Section 5—Conditions governing contributions

(a) Contributions shall be made without restrictions as to use and shall be refunded to contributing Members only in accordance with Section 4 of Article 9.

(b) Contributions shall be made in freely convertible currencies except that Members in category III may pay contributions in their own currency whether or not it is freely convertible.

(c) Contributions to the Fund shall be made in cash or, to the extent that any part of such contributions is not needed immediately by the Fund in its operations, such part may be paid in the form of non-negotiable, irrevocable, non-interest bearing promissory notes or obligations payable on demand. In order to finance its operations, the Fund shall draw down all contributions (regardless of the form in which they are made) as follows:

(i) contributions shall be drawn down on a *pro rata* basis over reasonable periods of time as determined by the Executive Board;

(ii) where a contribution is paid partly in cash, the part so paid shall be drawn down, in accordance with paragraph (i), before the rest of the contribution. Except to the extent that the part paid in cash is thus drawn down, it may be deposited or invested by the Fund to produce income to help defray its administrative and other expenditures;

(iii) all initial contributions, as well as any increases in them, shall be drawn down before any additional contributions are drawn down. The same rule shall apply to further additional contributions.

Section 6—Special contributions

The resources of the Fund may be increased by special contributions from non-member States or other sources on such terms and conditions, consistent with Section 5 of this Article, as shall be approved by the Governing Council on the recommendation of the Executive Board.

ARTICLE 5

CURRENCIES

Section 1—Use of currencies

(a) Members shall not maintain or impose any restriction on the holding or use by the Fund of freely convertible currencies.

(b) The currency of a Member in category III paid to the Fund on account of that Member's initial or additional contributions may be used by the Fund, in consultation with the Member concerned, for the payment of administrative expenditures and other costs of the Fund in the territories of that Member, or, with the consent of that Member, for the payment of goods or services produced in its territories and required for activities financed by the Fund in other States.

Section 2—Valuation of currencies

(a) The unit of account of the Fund shall be the Special Drawing Right of the International Monetary Fund.

(b) For the purposes of this Agreement, the value of a currency in terms of the Special Drawing Right shall be calculated in accordance with the method of valuation applied by the International Monetary Fund, provided that:

(i) in the case of the currency of a member of the International Monetary Fund for which such value is not available on a current basis, the value shall be calculated after consultation with the International Monetary Fund;

(ii) in the case of the currency of a non-member of the International Monetary Fund, the value of the currency in terms of the Special Drawing Right shall be calculated by the Fund on the basis of an appropriate exchange rate relationship between that currency and the currency of a member of the International Monetary Fund for which a value is calculated as specified above.

Article 6

ORGANIZATION AND MANAGEMENT

Section 1—Structure of the Fund

The Fund shall have: (a) A Governing Council; (b) an Executive Board; and (c) a President and such staff as shall be necessary for the Fund to carry out its functions.

Section 2—The Governing Council

(a) Each Member shall be represented on the Governing Council and shall appoint one Governor and an alternate. An alternate may vote only in the absence of his principal.

(b) All the powers of the Fund shall be vested in the Governing Council.

(c) The Governing Council may delegate any of its powers to the Executive Board with the exception of the power to:

(i) adopt amendments to this Agreement;

(ii) approve membership and determine the classification or reclassification of Members;

(iii) suspend a member;

(iv) terminate the operations of the Fund and distribute its assets;

(v) decide appeals from decisions made by the Executive Board concerning the interpretation or application of this Agreement;

(vi) determine the remuneration of the President.

(d) The Governing Council shall hold an annual session, and such special sessions as it may decide or as are called by Members having at least one fourth of the total number of votes in the Governing Council, or as requested by the Executive Board by a two-thirds majority of the votes cast.

(e) The Governing Council may by regulation establish a procedure whereby the Executive Board may obtain a vote of the Council on a specific question without calling a meeting of the Council.

(f) The Governing Council may, by a two-thirds majority of the total number of votes, adopt such regulations and by-laws not inconsistent with this agreement as may be appropriate to conduct the business of the Fund.

(g) A quorum for any meeting of the Governing Council shall be constituted by Governors exercising two-thirds of the total votes of all its members, provided that Governors exercising one half of the total votes of the members in each categories I, II and III are present.

Section 3—Voting in the Governing Council

(a) The total number of votes in the Governing Council shall be 1,800, distributed equally among categories I, II and III. The votes of each category shall be distributed among its members in accordance with the formula set out for that category in Schedule II, which forms an integral part of this Agreement.

(b) Except as otherwise specified in this Agreement, decisions of the Governing Council shall be taken by a simple majority of the total number of votes.

Section 4—Chairman of the Governing Council

The Governing Council shall elect a Chairman from among the Governors, who shall serve for two years.

Section 5—Executive Board

(a) The Executive Board shall be composed of 18 Members of the Fund, elected at the annual session of the Governing Council. The Governors from the Members of each category shall, in accordance with procedures set out or established as provided in Schedule II for that category, elect six members of the Executive Board from among the Members in that category, and may similarly elect (or, in respect of category I, provide for the appointment of) up to six alternates, who may vote only in the absence of a member.

(b) Members of the Executive Board shall serve for a term of three years. However, unless otherwise provided in or in accordance with Schedule II, at the first election two members in each category shall be designated to serve for one year, and two to serve for two years.

(c) The Executive Board shall be responsible for the conduct of the general operations of the fund, and for this purpose shall exercise the powers given to it by this Agreement or delegated to it by the Governing Council.

(d) The Executive Board shall meet as often as the business of the Fund may require.

(e) The representatives of a member or of an alternate member of the Executive Board shall serve without remuneration from the Fund. However, the Governing Council may decide the basis on which reasonable travel and subsistence expenses may be granted to one such representative of each member and of each alternate member.

(f) A quorum for any meeting of the Executive Board shall be constituted by members exercising two thirds of the total votes of all its members, provided that members exercising one half of the total votes of the members in each of categories I, II and III are present.

Section 6—Voting in the Executive Board

(a) The total number of votes in the Executive Board shall be 1,800, distributed equally among categories I, II and III. The votes of each category shall be distributed among its members in accordance with the formula set out for that category in Schedule II.

(b) Except as otherwise specified in this Agreement, decisions of the Executive Board shall be taken by a majority of three fifths of the votes cast, provided that such majority is more than one half of the total number of votes of all members of the Executive Board.

Section 7—Chairman of the Executive Board

The President of the Fund shall be the Chairman of the Executive Board and shall participate in its meetings without the right to vote.

Section 8—President and staff

(a) The Governing Council shall appoint the President by a two-thirds majority of the total number of votes. He shall be appointed for a term of three years and shall be eligible for reappointment for only one further term. The appointment of the President may be terminated by the Governing Council by a two-thirds majority of the total number of votes.

(b) The President may appoint a Vice-President, who shall perform such duties as shall be assigned to him by the President.

(c) The President shall head the staff and, under the control and direction of the Governing Council and the Executive Board, shall be responsible for conducting the business of the Fund. The President shall organize the staff and shall appoint and dismiss members of the staff in accordance with regulations adopted by the Executive Board.

(d) In the employment of the staff and in the determination of the conditions of service consideration shall be given to the necessity of securing the highest standards of efficiency, competence and integrity as well as to the importance of observing the criterion of equitable geographical distribution.

(e) The President and the staff, in the discharge of their functions, owe their duty exclusively to the Fund and shall neither seek nor receive instructions in regard to the discharge thereof from any authority external to the Fund. Each Member of the Fund shall respect the international character of this duty and shall refrain from any attempt to influence them in the discharge of their duties.

(f) The President and the staff shall not interfere in the political affairs of any Member. Only development policy considerations shall be relevant to their decisions and these considerations shall be weighed impartially in order to achieve the objective for which the Fund was established.

(g) The President shall be the legal representative of the Fund.

(h) The President, or a representative designated by him, may participate, without the right to vote, in all meetings of the Governing Council.

Section 9—Seat of the Fund

The Governing Council shall determine the permanent seat of the Fund by a two-thirds majority of the total number of votes. The provisional seat of the Fund shall be in Rome.

Section 10—Administrative budget

The President shall prepare an annual administrative budget which he shall submit to the Executive Board for transmission to the Governing Council for approval by a two-thirds majority of the total number of votes.

Section 11—Publication of reports and provision of information

The Fund shall publish an annual report containing an audited statement of its accounts and, at appropriate intervals, a summary statement of its financial position and of the results of its operations. Copies of such reports, statements and other publications connected therewith shall be distributed to all Members.

ARTICLE 7

OPERATIONS

Section 1—Use of resources and conditions of financing

(a) The resources of the Fund shall be to achieve the objective specified in Article 2.

(b) Financing by the Fund shall be provided only to developing States that are Members of the Fund or to intergovernmental organizations in which such Members participate. In the case of a loan to an intergovernmental organization, the Fund may require suitable governmental or other guarantees.

(c) The Fund shall make arrangements to ensure that the proceeds of any financing are used only for the purposes for which the financing was provided, with due attention to considerations of economy, efficiency and social equity.

(d) In allocating its resources the Fund shall be guided by the following priorities:

(i) the need to increase food production and to improve the nutritional level of the poorest populations in the poorest food deficit countries;

(ii) the potential for increasing food production in other developing countries. Likewise, emphasis shall be placed on improving the nutritional level of the poorest populations in these countries and the conditions of their lives.

Within the framework of the above-mentioned priorities, eligibility for assistance shall be on the basis of objective economic and social criteria with special emphasis on the needs of the low income countries and their potential for increasing food production, as well as due regard to a fair geographic distribution in the use of such resources.

(e) Subject to the provisions of this Agreement, financing by the Fund shall be governed by broad policies, criteria and regulations laid down, from time to time, by the Governing Council by a two-thirds majority of the total number of votes.

Section 2—Forms and terms of financing

(a) Financing by the Fund shall take the form of loans and grants, which shall be provided on such terms as the Fund deems appropriate, having regard to the economic situation and prospects of the Member and to the nature and requirements of the activity concerned.

(b) The proportion of the Fund's resources to be committed in any financial year for financing operations in either of the forms referred to in subsection (a) shall be decided from time to time by the Executive Board with due regard to the long-term viability of the Fund and the need for continuity in its operations. The proportion of grants shall not formally exceed one-eighth of the resources committed in any financial year. A large proportion of the loans shall be provided on highly concessional terms.

(c) The President shall submit projects and programmes to the Executive Board for consideration and approval.

(d) Decisions with regard to the selection and approval of projects and programmes shall be made by the Executive Board. Such decisions shall be made on the basis of the broad policies, criteria and regulations established by the Governing Council.

(e) For the appraisal of projects and programmes presented to it for financing, the Fund shall, as a general rule, use the services of international institutions and may, where appropriate, use the services of other competent agencies specialized in this field. Such institutions and agencies shall be selected by the Executive Board after consultations with the recipient concerned and shall be directly responsible to the Fund in performing the appraisal.

(f) The loan agreement shall be concluded in each case by the Fund and the recipient, which shall be responsible for the execution of the project or programme concerned.

(g) The Fund shall entrust the administration of loans, for the purposes of the disbursement of the proceeds of the loan and the supervision of the implementation of the project or programme concerned, to competent international institutions. Such institutions shall be of a world-wide or regional character and shall be selected in each case with the approval of the recipient. Before submitting the loan to the Executive Board for approval, the Fund shall assure itself that the institution to be entrusted with the supervision agrees with the results of the appraisal of the project or programme concerned. This shall be arranged between the Fund and the institution or agency in charge of the appraisal as well as with the institution to be entrusted with the supervision.

(h) For the purposes of subsections (f) and (g) above, references to "loans" shall be deemed to include "grants".

(i) The Fund may extend a line of credit to a national development agency to provide and administer subloans for the financing of projects and programmes within the terms of the loan agreement and the framework agreed to by the Fund. Before the Executive Board approves the extension of such a line of credit, the national development agency concerned and its programme shall be appraised in accordance with the provisions of subsection (e). Implementation of the said programme shall be subject to supervision by the institutions selected in accordance with the provisions of subsection (g).

(j) The Executive Board shall adopt suitable regulations for procuring goods and services to be financed from the resources of the Fund. Such regulations shall, as a general rule, conform to the principles of international competitive bidding and shall give appropriate preference to experts, technicians and supplies from developing countries.

Section 3—Miscellaneous operations

In addition to the operations specified elsewhere in this Agreement, the Fund may undertake such ancillary activities and exercise such powers incidental to its operations as shall be necessary in furtherance of its objective.

ARTICLE 8

RELATIONS WITH THE UNITED NATIONS AND WITH OTHER ORGANIZATIONS, INSTITUTIONS AND AGENCIES

Section 1—Relations with the United Nations

The Fund shall enter into negotiations with the United Nations with a view to concluding an agreement to bring it into relationship with the United Nations as one of the specialized agencies referred to in Article 57 of the Charter of the United Nations. Any agreements concluded in accordance with Article 63 of the Charter require the approval of the Governing Council, by a two-thirds majority of the total number of votes, upon the recommendation of the Executive Board.

Section 2—Relations with other organizations, institutions, and agencies

The Fund shall cooperate closely with the Food and Agriculture Organization of the United Nations and other organizations of the United Nations system. It shall also cooperate closely with other intergovernmental organizations, international financial institutions, nongovernmental organizations and governmental agencies concerned with agricultural development. To this end, the Fund will seek the collaboration in its activities of the Food and Agriculture Organization of the United Nations and the other bodies referred to above, and may enter into agreements or establish working arrangements with such bodies, as may be decided by the Executive Board.

ARTICLE 9

WITHDRAWAL, SUSPENSION OF MEMBERSHIP, TERMINATION OF OPERATIONS

Section 1—Withdrawal

(a) Except as provided in section 4(a) of this Article, a Member may withdraw from the Fund by depositing an instrument of denunciation of this Agreement with the Depositary.

(b) Withdrawal of a Member shall take effect on the date specified in its instrument of denunciation, but in no event less than six months after deposit of such instrument.

Section 2—Suspension of Membership

(a) If a Member fails to fulfill any of its obligations to the Fund, the Governing Council may, by a three-fourths majority of the total number of votes, suspend its membership. The Member so suspended shall automatically cease to be a Member one year from the date of its suspension, unless the Council decides by the same majority of the total number of votes to restore the Member to good standing.

(b) While under suspension, a Member shall not be entitled to exercise any rights under this Agreement except the right of withdrawal, but shall remain subject to all of its obligations.

Section 3—Rights and duties of States ceasing to be Members

Whenever a State ceases to be a Member, whether by withdrawal or through the operation of Section 2 of this Article, it shall have no rights under this Agreement except as provided in this Section or in Section 2 of Article 11, but it shall remain liable for all financial obligations undertaken by it to the Fund, whether as Member, borrower or otherwise.

Section 4—Termination of operations and distribution of assets

(a) The Governing Council may terminate the Fund's operations by a three-fourths majority of the total number of votes. After such termination of operations the Fund shall forthwith cease all activities, except those incidental to the orderly realization and conservation of its assets and the settlement of its obligations. Until final settlement of such obligations and the distribution of such assets, the Fund shall remain in existence and all rights and obligations of the Fund and its Members under this Agreement shall continue unimpaired, except that no Member may be suspended or may withdraw.

(b) No distribution of assets shall be made to Members until all liabilities to creditors have been discharged or provided for. The Fund shall distribute its assets to contributing Members *pro rata* to the contributions that each Member has made to the resources of the Fund. Such distribution shall be decided by the Governing Council by a three-fourths majority of the total number of votes and shall be effected at such times, and in such currencies or other assets as the Governing Council shall deem fair and equitable.

ARTICLE 10

LEGAL STATUS, PRIVILEGES AND IMMUNITIES

Section 1—Legal status

The Fund shall possess international legal personality.

Section 2—Privileges and immunities

(a) The Fund shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the exercise of its functions and for the fulfillment of its objective. Representatives of Members, the President and the staff of the Fund shall enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connexion with the Fund.

(b) The privileges and immunities referred to in paragraph (a) shall:

(i) in the territory of any Member that has acceded to the Convention on the Privileges and Immunities of the specialized Agencies in respect of the Fund, be as defined in the standard clauses of that Convention as modified by an annex thereto approved by the Governing Council;

(ii) in the territory of any Member that has acceded to the Convention on the Privileges and Immunities of the Specialized Agencies only in respect of agencies other than the Fund, be as defined in the standard clauses of that Convention, except if such Member notifies the Depositary that such clauses shall not apply to the Fund or shall apply subject to such modifications as may be specified in the notification;

(iii) be as defined in other agreements entered into by the Fund.

(c) In respect of a Member that is a grouping of States, it shall ensure that the privileges and immunities referred to in this Article are applied in the territories of all members of the grouping.

ARTICLE 11

INTERPRETATION AND ARBITRATION

Section 1—Interpretation

(a) Any question of interpretation or application of the provisions of this Agreement arising between any Member and the Fund or between Members of the Fund, shall be submitted to the Executive Board for decision. If the question particularly affects any Member of the Fund not represented on the Executive Board, that Member shall be entitled to be represented in accordance with regulations to be adopted by the Governing Council.

(b) Where the Executive Board has given a decision pursuant to subsection (a), any Member may require that the question be referred to the Governing Council, whose decision shall be final. Pending the decision of the Governing Council, the Fund may, so far as it deems necessary, act on the basis of the decision of the Executive Board.

Section 2—Arbitration

In the case of a dispute between the Fund and a State that has ceased to be a Member, or between the Fund and any Member upon the termination of the operations of the Fund, such dispute shall be submitted to arbitration by a tribunal of three arbitrators. One of the arbitrators shall be appointed by the Fund, another by the Member or former Member concerned and two parties shall appoint the third arbitrator, who shall be the Chairman. If within 45 days of receipt of the request for arbitration either party has not appointed an arbitrator, or if within 30 days of the appointment of two arbitrators the third arbitrator has not been appointed, either party may request the President of the International Court of Justice, or such other authority as may have been prescribed by regulations adopted by the Governing Council, to appoint an arbitrator. The procedure of the arbitration shall be fixed by the arbitrators, but the Chairman shall have full power to settle all questions of procedure in any case of disagreement with respect thereto. A majority vote of the arbitrators shall be sufficient to reach a decision, which shall be final and binding upon the parties.

ARTICLE 12

AMENDMENTS

(a) Except in respect of Schedule II:

(i) Any proposal to amend this Agreement made by a Member or by the Executive Board shall be communicated to the President who shall notify all Members. The President shall refer proposals to amend this Agreement made by a Member to the Executive Board, which shall submit its recommendation thereon to the Governing Council.

(ii) Amendments shall be adopted by the Governing Council by a four-fifths majority of the total number of votes. Amendments shall enter into force three months after their adoption unless otherwise specified by the Governing Council except that any amendment modifying:

(A) the right to withdraw from the Fund;

(B) the voting majority requirements provided for in this Agreement;

(C) the limitation on liability provided for in Section 4 of Article 3;

(D) the procedure for amending this Agreement;

shall not come into force until written acceptance of such amendment by all Members is received by the President.

(b) In respect of the several parts of Schedule II, amendments shall be proposed and adopted as provided in such parts.

(c) The President shall immediately notify all Members and the Depositary of any amendments that are adopted and of the date of entry into force of any such amendments.

ARTICLE 13

FINAL CLAUSES

Section 1—Signature, ratification, acceptance, approval, and accession

(a) This Agreement may be initialled on behalf of the States listed in Schedule I to this Agreement at the United Nations Conference on the establishment of the Fund and shall be open for signature at the Headquarters of the United Nations in New York by the States listed in that Schedule as soon as the initial contributions indicated therein to be made in freely convertible currencies amount to at least the equivalent of 1,000 million United States dollars (valued as of 10 June 1976). If the foregoing requirement has not been fulfilled by 30 September 1976 the Preparatory Commission established by that Conference shall convene by 31 January 1977 a meeting of the States listed in Schedule I, which may by a two-thirds majority of each category reduce the above specified amount and may also establish other conditions for the opening of this Agreement for signature.

(b) Signatory States may become parties by depositing an instrument of ratification, acceptance or approval; non-signatory States listed in Schedule I may become parties by depositing an instrument of accession. Instruments of ratification, acceptance, approval and accession by States in category I or II shall specify the amount of the initial contribution the State undertakes to make. Signatures may be affixed and instruments of ratification, acceptance, approval or accession deposited by such States until one year after the entry into force of this Agreement.

(c) States listed in Schedule I that have not become parties to this Agreement within one year after its entry into force and States that are not so listed, may, after approval of their membership by the Governing Council, become parties by depositing an instrument of accession.

Section 2

(a) The Secretary-General of the United Nations shall be the Depositary of this Agreement.

(b) The Depositary shall send notifications concerning this Agreement:

(i) until one year after its entry into force, to the States listed in Schedule I to this Agreement, and after such entry into force to all States parties to this Agreement as well as to those approved for membership by the Governing Council;

(ii) To the Preparatory Commission established by the United Nations Conference on the Establishment of the Fund, as long as it remains in existence, and thereafter to the President.

Section 3—Entry into force

(a) This Agreement shall enter into force upon receipt by the Depositary of instruments of ratification, acceptance, approval or accession from at least 6 States in category I, 6 States in category II and 24 States in category III, provided that such instruments have been deposited by States in categories I and II the aggregate of whose initial contributions specified in such instruments amounts to at least the equivalent of 750 million United States dollars (valued as of 10 June 1976), and further provided that the foregoing requirements have been fulfilled within 18 months of the date on which this Agreement is opened for signature or by such later date as the States that have deposited such instruments by the end of that period may decide, by a two-thirds majority of each category, and as they notify to the Depositary.

(b) For States that deposit an instrument of ratification, acceptance, approval or accession subsequent to the entry into force of this Agreement, it shall enter into force on the date of such deposit.

Section 4—Reservations

Reservations may only be made to Section 2 of Article 11 of this Agreement.

Section 5—Authoritative texts

The versions of this Agreement in the Arabic, English, French and Spanish languages shall each be equally authoritative.

IN WITNESS WHEREOF, the undersigned being duly authorized thereto, have signed this Agreement in a single original in the Arabic, English, French, and Spanish languages.

SCHEDULE I

Category I

Australia
Austria
Belgium
Canada
Denmark
Finland
France
Germany, Federal Republic of
Ireland
Italy
Luxembourg
Japan
Netherlands
New Zealand
Norway
Spain
Sweden
Switzerland
United Kingdom of Great Britain and Northern Ireland
United States of America

Category II

Algeria
Gabon
Indonesia
Iran
Iraq
Kuwait
Libyan Arab Republic
Nigeria
Qatar
Saudi Arabia
United Arab Emirates
Venezuela

Category III

Argentina
Bangladesh
Bolivia
Botswana
Brazil
Cape Verde
Chad
Chile
Colombia
Congo
Costa Rica
Cuba
Dominican Republic
Ecuador
Egypt
El Salvador
Ethiopia
Ghana
Greece
Guatemala
Guinea
Haiti
Honduras
India
Israel[1]
Jamaica
Kenya
Liberia
Mali
Malta
Mexico
Morocco
Nicaragua
Pakistan
Panama
Papua New Guinea
Peru
Philippines
Portugal
Republic of Korea
Romania
Rwanda
Senegal
Sierra Leone
Somalia
Sri Lanka
Sudan
Swaziland
Syrian Arab Republic
Thailand
Tunisia
Turkey
Uganda
United Republic of Cameroon
United Republic of Tanzania
Uruguay
Yugoslavia
Zaire
Zambia

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[1] With reference to Article 7, Section 1(b) on the use of resources of the Fund for "developing countries", this country will not be included under this Section and will not seek or receive financing from the Fund.

PART II.—PLEDGES OF INITIAL CONTRIBUTIONS [1]

State and currency unit	Amount in currency	Equivalent in SDR's [2]
CATEGORY I		
Australia: Australian dollar	8,000,000	8,609,840
Austria: U.S. dollar	4,800,000	4,197,864
Belgium:		
Belgian franc	500,000,000	11,930,855
U.S. dollar	1,000,000	
Canada: Canadian dollar	33,000,000	29,497,446
Denmark: U.S. Dollar	7,500,000	6,559,163
Finland: Finnish markka	12,000,000	2,682,320
France: U.S. dollar	25,000,000	21,863,875
Germany, Federal Republic of: U.S. dollar	55,000,000	48,100,525
Ireland: Pound sterling	570,000	683,335
Italy: U.S. dollar	25,000,000	21,863,875
Japan: U.S. dollar	55,000,000	48,100,525
Luxembourg: Special drawing right	320,000	320,000
Netherlands:		
Dutch guilder	100,000,000	34,594,265
U.S. dollar	3,000,000	
New Zealand: New Zealand dollar	2,000,000	1,721,998
Norway:		
Norwegian Kroner	75,000,000	20,612,228

PART II.—PLEDGES OF INITIAL CONTRIBUTIONS [1]—Continued

State and currency unit	Amount in currency	Equivalent in SDR's [2]
U.S. dollar	9,981,851	—
Spain: U.S. dollar	2,000,000	1,749,110
Sweden:		
Swedish kronor	100,000,000	22,325,265
U.S. dollar	3,000,000	—
Switzerland: Swiss franc	22,000,000	7,720,790
United Kingdom: Pound sterling	18,000,000	27,894,700
United States: U.S dollar	200,000,000	174,911,000
Subtotal		496,149,039
CATEGORY II		
Algeria: U.S. dollar	10,000,000	8,745,550
Gabon: U.S. dollar	500,000	437,278
Indonesia: U.S. dollar	1,250,000	1,093,194
Iran: U.S. dollar	124,750,000	109,100,736
Iraq: U.S. dollar	20,000,000	17,491,100
Kuwait: U.S. dollar	36,000,000	31,483,980
Libyan Arab Republic: U.S. dollar	20,000,000	17,491,100
Nigeria: U.S. dollar	26,000,000	22,738,430
Qatar: U.S. dollar	9,000,000	7,870,995
Saudi Arabia: U.S. dollar	105,500,000	92,265,553
United Arab Emirates: U.S. dollar	16,500,000	14,430,158
Venezuela: U.S. dollar	66,000,000	57,720,630
Subtotal		380,868,704

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[1] Subject to obtaining, where required, the necessary legislative approval.

[2] Special drawing rights (SDR's) of the International Monetary Fund valued as of 10, June 1976. These equivalent values are stated merely for information in the light of Section 2(a) of Article 5 of the Agreement with the understanding that the initial contributions pledged will be payable in accordance with Section 2(a) of Article 4 of the Agreement in the amount of currency specified by the state concerned.

	Amount in currency	Equivalent in SDR's [2]	
		Freely convertible	Not freely convertible
CATEGORY III			
Argentina: Argentine peso	240,000,000	—	1,499,237
Bangladesh: Taka (equivalent of U.S. dollar)	500,000	—	437,278
Chile: U.S. dollar	50,000	43,728	—
Ecuador: U.S. dollar	25,000	21,864	—
Egypt: Egyptian pound (equivalent of U.S. dollar)	300,000	—	262,367
Ghana: U.S. dollar	100,000	87,456	—
Guinea: Syli	25,000,000	—	1,012,145
Honduras: U.S. dollar	25,000	21,864	—
India:			
U.S. dollar	2,500,000	2,186,388	—
Indian rupee (equivalent of U.S. dollar)	2,500,000	—	2,186,388
Israel: Israel pound (equivalent of U.S. dollar)	150,000	—	131,183
Kenya: Kenya shilling (equivalent of U.S. dollar)	1,000,000	—	874,555
Mexico: U.S. dollar	5,000,000	4,372,775	—
Nicaragua: Cordoba	200,000	—	24,894
Pakistan:			
U.S. dollar	500,000	437,278	—
Pakistan rupee (equivalent of U.S. dollar)	500,000	—	437,278
Philippines: U.S. dollar	250,000	43,728	174,911
Republic of Korea:			
U.S. dollar	100,000	87,456	—
Chon (equivalent of U.S. dollar)	100,000	—	87,456
Romania: Leu (equivalent of U.S. dollar)	1,000,000	—	874,555
Sierra Leone: Leone	20,000	—	15,487
Sri Lanka:			
U.S. dollar	500,000	437,278	—

	Amount in currency	Equivalent in SDR's[a]	
		Freely convertible	Not freely convertible
Sri Lanka rupee (equivalent of U.S. dollar)	500,000		437,278
Syrian Arab Republic: Syrian pound	500,000		111,409
Thailand: U.S. dollar	100,000	87,456	
Tunisia: Tunisian dinar	50,000		100,621
Turkey: Turkish lira (equivalent of U.S. dollar)	100,000		87,456
Uganda: Uganda shilling	200,000		20,832
United Republic of Cameroon: U.S. dollar	10,000	8,746	
United Republic of Tanzania: Tanzania shilling	300,000		31,056
Yugoslavia: Yugoslav dinar (equivalent of U.S. dollar)	300,000		262,367
Subtotal		7,836,017	9,068,763
Total freely convertible		[b] 884,853,780	
Grand total (freely and not freely convertible)		893,922,543	

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[a] Special drawing rights (SDR's) of the International Monetary Fund valued as of 10, June 1976. These equivalent values are stated merely for information in the light of Section 2(a) of Article 5 of the Agreement, with the understanding that the initial contributions pledged will be payable in accordance with Section 2(a) of Article 4 of the Agreement in the amount and currency specified by the state concerned.

[b] Equivalent of U.S. dollars, 1,011,776,023 valued as of June 10, 1976.

SCHEDULE II

DISTRIBUTION OF VOTES AND ELECTION OF EXECUTIVE BOARD MEMBERS

Part I: Category I

Sub-part A: Distribution of votes in the Governing Council.
Sub-part B: Election of members of the Executive Board and their alternates.
Sub-part C: Distribution of votes in the Executive Board.
Sub-part D: Amendments.

Part II: Category II

Sub-part A: Distribution of votes in the Governing Council.
Sub-part B: Election of members of the Executive Board and their alternates.
Sub-part C: Distribution of votes in the Executive Board.
Sub-part D: Amendments.

Part III: Category III

Sub-part A: Distribution of votes in the Governing Council.
Sub-part B: Election of members of the Executive Board and their alternates.
Sub-part C: Distribution of votes in the Executive Board.
Sub-part D: Amendments.

PART I: CATEGORY I

A. Distribution of votes in the Governing Council

1. 17.5 per cent of the votes of category I shall be distributed equally among the Members of that category.

2. The remaining 82.5 per cent of the votes shall be distributed among Members of category I in the proportion that each Member's:

(a) initial contribution as specified in its instrument of ratification, acceptance, approval or accession, and

(b) additional contributions and increases in contributions made in accordance with Section 5(c) of Article 4 bear to the aggregate of the contributions of category I Members.

3. In determining voting power under paragraph 2, contributions shall be valued in terms of their equivalent in Special Drawing Rights as of the date of the entry into force of the Agreement and thereafter whenever there is an increase in the aggregate of the contributions of category I Members as a result of a new Member in category I, an increase in the contribution of a category I Member or additional contributions by category I Members.

4. In the Governing Council each Governor representing a Member in category I shall be entitled to cast the votes of that Member.

B. Election of members of the Executive Board and their alternates

1. All of the members and alternate members of the Executive Board from category I shall serve for a term of three years, including those elected at the first election of members of the Executive Board.

2. In balloting for the election of members of the Executive Board representing Members in category I, each Governor representing such a Member shall cast for one nominee all of the votes to which the Member which appointed that Governor is entitled.

3. When on any ballot the number of nominees equals the number of members to be elected, each nominee shall be deemed to be elected by the number of votes received by him on such ballot.

4. (a) When on any ballot the number of nominees exceeds the number of members to be elected, the six nominees receiving the highest number of votes shall be elected, except that no nominee who receives less than 9 per cent of the total voting power of category I shall be considered as elected.

(b) If six members are elected on the first ballot, the votes that were cast for the nominee not elected shall be deemed to have counted towards the election of any six members, as chosen by each Governor having such votes.

5. When six members are not elected on the first ballot, a second ballot shall be held in which the Member which received the lowest number of votes in the preceding ballot shall be ineligible for election and in which there shall vote only:

(a) those Governors who voted in the preceding ballot for a nominee not elected, and

(b) those Governors whose votes for a member elected are deemed under paragraph 6 to have raised the votes cast for that member above 15 per cent of the eligible votes.

6. (a) In determining whether the votes cast by a Governor are to be deemed to have raised the total of any member above 15 per cent of the eligible votes, the 15 per cent shall be deemed to include, first, the votes of the Governor casting the largest number of votes for such member, then the votes of the Governor casting the next largest number, and so on until 15 per cent is reached.

(b) If in any ballot two or more Governors having an equal number of votes shall have voted for the same nominee and the votes of one or more, but not all, of such Governors could be deemed to have raised the total votes above 15 per cent of the eligible votes, who shall be entitled to vote on the next ballot shall be determined by lot.

7. Any Governor, part of whose votes must be counted in order to raise the total of any member above 12 per cent, shall be considered as casting all of his votes for such member even if the total votes for such member thereby exceed 15 per cent.

8. If, after the second ballot, six members have not been elected, a further ballot shall be held on the same principles until six members have been elected, provided that after five members are elected, the sixth may be elected by a simple majority of the remaining votes and the remaining votes shall be deemed to have counted towards its election.

9. Each member elected to the Executive Board may appoint an alternate from among the Members whose votes are deemed to have elected it.

C. Distribution of votes in the Executive Board

1. In the Executive Board a member elected by a Governor or Governors representing a Member or Members in category I shall be entitled to cast the votes of that Member or Members. Where the member represents more than one Member it may cast separately the votes of the Members it represents.

2. If the voting rights of a Member of category I should change between the times provided for the election of members of the Executive Board:

(a) there shall be no change in such members as a result thereof;

(b) voting rights of each member of the Executive Board shall be adjusted as of the effective date of the change in voting rights of the Member or Members it represents;

(c) the Governor of a new Member of category I may designate an existing member of the Executive Board to represent it and cast its votes until the next election of members of the Board. During such period a member so designated shall be deemed to have been elected by the Governor which so designated it.

D. Amendments

1. The Governors representing category I Members may by a unanimous decision amend the provisions of sub-parts A and B. Unless otherwise decided, the amendment shall have immediate effect. The President shall be informed of any amendment to sub-parts A and B.

2. The Governors representing category I Members may amend the provisions of sub-part C by a decision taken with a majority of 75 per cent of the total voting power of such Governors. Unless otherwise decided, the amendment shall have immediate effect. The President shall be informed of any amendment to sub-part C.

PART II: CATEGORY II

A. Distribution of votes in the Governing Council

1. 25 per cent of the votes of category II shall be distributed equally among the Members of that category.

2. The remaining 75 per cent of the votes shall be distributed among the Members of category II in the proportion that each Member's contribution (made in accordance with Section 5(c) of Article 4) bears to the aggregate of the contributions of the category II Members.

3. In the Governing Council each Governor representing a Member in category II shall be entitled to cast the votes of that Member.

B. Election of members of the Executive Board and their alternates

1. All of the members and alternate members of the Executive Board from category II shall serve for a term of three years, including those elected at the first election of members of the Executive Board.

2. Each nominee for membership of the Executive Board may, in consultation with all the other Members of category II, agree with another Member in that category that the latter be a nominee as its alternate. A vote for the nominee for membership shall also be counted as a vote for its alternate.

3. In balloting for members and alternate members of the Executive Board, each Governor shall cast for his nominees all of the votes to which the Member which appointed that Governor is entitled.

4. When on any ballot the number of nominees receiving votes:

(a) is equal to the number of places to be filled, all such nominees shall be considered elected;

(b) is fewer than the number of places to be filled, all such nominees shall be considered elected, and additional ballots shall be held to fill the remaining places;

(c) exceeds the number of places to be filled, the nominee (or the nominees receiving the same number of votes) receiving the fewest votes shall be eliminated and, if the remaining nominees having received votes:

(i) are equal to the number of places to be filled, all such nominees shall be considered elected;

(ii) are fewer than the number of places to be filled, all such nominees shall be considered elected and additional ballots shall be held to fill the remaining places, participation in which shall be limited to those Governors whose votes did not count towards the election of any member already elected;

(iii) exceed the number of places to be filled, additional ballots shall be held, participation in which shall be limited to those Governors whose votes did not count towards the election of any members already elected.

C. Distribution of votes in the Executive Board

1. In the Executive Board a member elected by a Governor or Governors representing a Member or Members in category II shall be entitled to cast the votes of that Member or Members. A member of the Board representing more than one Member may cast separately the votes of the Members it represents.

2. If the voting rights of a Member of category II should change between the times provided for the election of members of the Executive Board:

(a) there shall be no change in such members as a result thereof;

(b) the voting rights of a member of the Executive Board shall be adjusted as of the effective date of the change in voting rights of the Member or Members it represents;

(c) the Governor of a new Member of category II may designate an existing member of the Executive Board to represent it and cast its votes until the next election of members of the Board. During such period a member so designated shall be deemed to have been elected by the Governor which so designated it.

D. Amendments

The provisions in sub-parts A–D may be amended by a vote of the Governors representing two thirds of the category II Members whose contributions (made in accordance with Section 5(c) of Article 4) amount to 70 per cent of the contributions of all category II Members. The President shall be informed of any amendments.

PART III: CATEGORY III

A. Distribution of votes in the Governing Council

The 600 votes of category III shall be distributed equally among the Members of that category.

B. Election of members of the Executive Board and their alternates

1. Of the six members and six alternate members of the Executive Board elected from among Members in category III, two members and two alternate members shall be from each of the following regions: Africa, Asia and Latin America, as these are recognized in the practice followed in the United Nations Conference on Trade and Development.

2. The procedures for electing members and alternate members of the Executive Board from category III pursuant to Section 5(a) of Article 6 of the Agreement and, pursuant to Section 5(b) of that Article, the term of service of such members and alternate members elected at the first election, shall be adopted either before the entry into force of the Agreement by a simple majority of the States listed in Part I of Schedule I as prospective Members in category III or after the entry into force of the Agreement by a simple majority of the Members in category III.

C. Distribution of votes in the Executive Board

Each member of the Executive Board from category III shall have 100 votes.

D. Amendments

Sub-part B may be amended from time to time by a two-thirds majority of the Members in category III. The President shall be informed of any amendments.

C. THE PEACE CORPS

(See Volume I for All Material on This Subject)

27

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D. ARMS CONTROL AND DISARMAMENT

CONTENTS

Page

1. Treaties and Agreements 31
  - a. Limited Nuclear Test Ban Treaty 31
  - b. Treaty on the Non-Proliferation of Nuclear Weapons 34
  - c. Prohibition of Nuclear Weapons in Latin America 40
    - (1) Additional Protocol II 40
    - (2) Understandings and Declarations Included in the U.S. Instrument of Ratification 42
    - (3) Additional Protocol I 44
    - (4) Resolution of Ratification in the Senate, with Understandings. 45
    - (5) Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) 47
  - d. Agreement on Measures To Reduce the Risk of Outbreak of Nuclear War Between the United States of America and the Union of Soviet Socialist Republics 61
  - e. Seabed Arms Control Treaty 63
  - f. SALT Agreements 67
    - (1) Joint Resolution on Interim Agreement (Public Law 92–448) 67
    - (2) Treaty on the Limitation of Anti-Ballistic Missile Systems, With Associated Protocol 69
    - (3) Interim Agreement on Certain Measures With Respect to the Limitation of Strategic Offensive Arms, With Associated Protocol 76
    - (4) Agreed Interpretations and Unilateral Statements 80
    - (5) Standing Consultative Commission on Arms Limitation 88
    - (6) Standing Consultative Commission on Arms Limitation: Regulations 90
  - g. Agreement on the Prevention of Nuclear War 92
  - h. Chemical and Biological Warfare 94
    - (1) Geneva Protocol of 1925 (with reservation) 94
    - (2) Biological Weapons Convention 96
  - i. Antarctic Treaty 101

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1. Treaties and Agreements

a. Limited Nuclear Test Ban Treaty [1]

Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water; Done at Moscow, U.S.S.R., on August 5, 1963; Ratification advised by the Senate September 24, 1963; Ratified by the President of the United States October 7, 1963; Ratifications of the Governments of the United States, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics deposited with the said Governments at Washington, London, and Moscow October 10, 1963; Proclaimed by the President October 10, 1963; Entered into Force October 10, 1963

The Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, hereinafter referred to as the "Original Parties",

Proclaiming as their principal aim the speediest possible achievement of an agreement on general and complete disarmament under strict international control in accordance with the objectives of the United Nations which would put an end to the armaments race and eliminate the incentive to the production and testing of all kinds of weapons, including nuclear weapons,

Seeking to achieve the discontinuance of all test explosions of nuclear weapons for all time, determined to continue negotiations to this end, and desiring to put an end to the contamination of man's environment by radioactive substances,

Have agreed as follows:

ARTICLE I

1. Each of the Parties to this Treaty undertakes to prohibit, to prevent, and not to carry out any nuclear weapon test explosion, or any other nuclear explosions at any place under its jurisdiction or control:

(a) in the atmosphere; beyond its limits, including outer space; or underwater, including territorial waters or high seas; or

(b) in any other environment if such explosion causes radioactive debris to be present outside the territorial limits of the State under whose jurisdiction or control such explosion is conducted.

It is understood in this connection that the provisions of this subparagraph are without prejudice to the conclusion of a treaty resulting in the permanent banning of all nuclear test explosions, including all such explosions underground, the conclusion of which, as the Parties have stated in the Preamble to this Treaty, they seek to achieve.

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[1] 14 UST 1313; TIAS 5433; 480 UNTS 43. For a list of states which are parties to the Treaty, see Department of State publication, *Treaties in Force*.

2. Each of the Parties to this Treaty undertakes furthermore to refrain from causing, encouraging, or in any way participating in, the carrying out of any nuclear weapon test explosion, or any other nuclear explosion, anywhere which would take place in any of the environments described, or have the effect referred to, in paragraph 1 of this Article.

ARTICLE II

1. Any Party may propose amendments to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Governments which shall circulate it to all Parties to this Treaty. Thereafter, if requests to do so by one-third or more of the Parties, the Depositary Governments shall convene a conference to which they shall invite all the Parties, to consider such amendment.

2. Any amendment to this Treaty must be approved by a majority of the votes of all the Parties to this Treaty, including the votes of all of the Original Parties. The amendment shall enter into force for all Parties upon the deposit of instruments of ratification by a majority of all the Parties, including the instruments of ratification of all of the Original Parties.

ARTICLE III

1. This Treaty shall be open to all States for signature. Any State which does not sign this Treaty before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Original Parties—the United States of America, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics—which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force after its ratification by all the Original Parties and the deposit of their instruments of ratification.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification of and accession to this Treaty, the date of its entry into force, and the date of receipt of any requests for conferences or other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

ARTICLE IV

This Treaty shall be of unlimited duration.

Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty three months in advance.

ARTICLE V

This Treaty, of which the English and Russian texts are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed this Treaty.

DONE in triplicate at the city of Moscow the fifth day of August, one thousand nine hundred and sixty-three.

NOTE.—See also Article IV of the Treaty on Outer Space, page 1064.

b. Treaty on the Non-Proliferation of Nuclear Weapons[1]

Done at Washington, London, and Moscow July 1, 1968; Ratification advised by the Senate of the United States of America March 13, 1969; Ratified by the President of the United States of America November 24, 1969; Ratification of the United States of America deposited at Washington, London, and Moscow March 5, 1970; Proclaimed by the President of the United States of America March 5, 1970; Entered into force March 5, 1970

The States concluding this Treaty, hereinafter referred to as the "Parties to the Treaty",

Considering the devastation that would be visited upon all mankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war and to take measures to safeguard the security of peoples,

Believing that the proliferation of nuclear weapons would seriously enhance the danger of nuclear war,

The conformity with resolutions of the United Nations General Assembly calling for the conclusion of an agreement on the prevention of wider dissemination of nuclear weapons,

Undertaking to cooperate in facilitating the application of International Atomic Energy Agency safeguards on peaceful nuclear activities,

Expressing their support for research, development and other efforts to further the application, within the framework of the International Atomic Energy Agency safeguards system, of the principle of safeguarding effectively the flow of source and special fissionable materials by use of instruments and other techniques at certain strategic points.

Affirming the principle that the benefits of peaceful applications of nuclear technology, including any technological by-products which may be derived by nuclear-weapon States from the development of nuclear explosive devices, should be available for peaceful purposes to all Parties to the Treaty, whether nuclear-weapon or non-nuclear-weapon States,

Convinced that, in furtherance of this principle, all Parties to the Treaty are entitled to participate in the fullest possible exchange of scientific information for, and to contribute alone or in cooperation with other States to, the further development of the applications of atomic energy for peaceful purposes,

Declaring their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to undertake effective measures in the direction of nuclear disarmament,

Urging the cooperation of all States in the attainment of their objective,

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[1] 21 UST 483: TIAS 6839. For a list of states which are parties to the Treaty, see Department of State publication, *Treaties in Force.*

Recalling the determination expressed by the Parties to the 1963 Treaty Banning Nuclear Weapon Tests in the Atmosphere in Outer Space and Under Water[2] in its Preamble to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to this end,

Desiring to further the easing of international tension and the strengthening of trust between States in order to facilitate the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons and the means of their delivery pursuant to a treaty on general and complete disarmament under strict and effective international control,

Recalling that, in accordance with the Charter of the United Nations,[3] States must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations, and that the establishment and maintenance of international peace and security are to be promoted with the least diversion for armaments of the world's human and economic resources,

Have agreed as follows:

ARTICLE 1

Each nuclear-weapon State Party to the Treaty undertakes not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly; and not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices.

ARTICLE II

Each non-nuclear-weapon State Party to the Treaty undertakes not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or explosive devices directly, or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices.

ARTICLE III

1. Each non-nuclear-weapon State Party to the Treaty undertakes to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency in the cordance with the Statute of the International Atomic Energy Agency and the Agency's safeguards system, for the exclusive purpose of verification of the fulfillment of its obligations assumed under this Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nucle-

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[2] See page 31 of text.
[3] See page 707 of text.

ar explosive devices. Procedures for the safeguards required by this article shall be followed with respect to source or special fissionable material whether it is being produced, processed or used in any principal nuclear facility or is outside any such facility. The safeguards required by this article shall be applied on all source or special fissionable material in all peaceful nuclear activities within the territory of such State, under its jurisdiction, or carried out under its control anywhere.

2. Each State Party to the Treaty undertakes not to provide: (a) source or special fissionable material, or (b) equipment or material especially designed or prepared for the processing, use or production of special fissionable material, to any non-nuclear-weapon State for peaceful purposes, unless the source or special fissionable material shall be subject to the safeguards required by this article.

3. The safeguards required by this article shall be implemented in a manner designed to comply with article IV of this Treaty, and to avoid hampering the economic or technological development of the Parties or international cooperation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing, use or production of nuclear material for peaceful purposes in accordance with the provisions of this article and the principle of safeguarding set forth in the Preamble of the Treaty.

4. Non-nuclear-weapon States Party to the Treaty shall conclude agreements with the International Atomic Energy Agency to meet the requirements of this article either individually or together with other States in accordance with the Statute of the International Atomic Energy Agency. Negotiation of such agreements shall commence within 180 days from the original entry into force of this Treaty. For States depositing their instruments of ratification or accession after the 180-day period, negotiation of such agreements shall commence not later than the date of such deposit. Such agreements shall enter into force not later than eighteen months after the date of initiation of negotiations.

ARTICLE IV

1. Nothing in this Treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with articles I and II of this Treaty.

2. All the Parties to the Treaty undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy. Parties to the Treaty in a position to do so shall also cooperate in contributing alone or together with other States or international organizations to the further development of the applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear-weapon States Party to the Treaty, with due consideration for the needs of the developing areas of the world.

ARTICLE V

Each Party to the Treaty undertakes to take appropriate measures to ensure that, in accordance with this Treaty, under appropriate international observation and through appropriate international procedures, potential benefits from any peaceful applications of nuclear explosions will be made available to non-nuclear-weapon States Party to the Treaty on a non-discriminatory basis and that the charge to such Parties for the explosive devices used will be as low as possible and exclude any charge for research and development. Non-nuclear-weapon States Party to the Treaty shall be able to obtain such benefits, pursuant to a special international agreement or agreements, through an appropriate international body with adequate representation of non-nuclear-weapon States. Negotiations of this subject shall commence as soon as possible after the Treaty enters into force. Non-nuclear-weapon States Party to the Treaty so desiring may also obtain such benefits pursuant to bilateral agreements.

ARTICLE VI

Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.

ARTICLE VII

Nothing in this Treaty affects the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories.

ARTICLE VIII

1. Any Party to the Treaty may propose amendments to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Governments which shall circulate it to all Parties to the Treaty. Thereupon, if requested to do so by one-third or more of the Parties to the Treaty, the Depositary Governments shall convene a conference, to which they shall invite all the Parties to the Treaty, to consider such an amendment.

2. Any amendment to this Treaty must be approved by a majority of the votes of all the Parties to the Treaty, including the votes of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. The amendment shall enter into force for each Party that deposits its instrument of ratification of the amendment upon the deposit of such instruments of ratification by a majority of all the Parties, including the instruments of ratification of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. Thereafter, it shall enter into force for any other Party upon the deposit of its instrument of ratification of the amendment.

3. Five years after the entry into force of this Treaty, a conference of Parties to the Treaty shall be held in Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the Preamble and the provisions of the Treaty are being realized. At intervals of five years thereafter, a majority of the Parties to the Treaty may obtain, by submitting a proposal to this effect to the Depositary Governments, the convening of further conferences with the same objective of reviewing the operation of the Treaty.

ARTICLE IX

1. This Treaty shall be open to all States for signature. Any State which does not sign the Treaty before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics, which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force after its ratification by the States, the Governments of which are designated Depositaries of the Treaty, and forty other States signatory to this Treaty and the deposit of their instruments of ratification. For the purposes of this Treaty, a nuclear-weapon State is one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to January 1, 1967.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or of accession, the date of the entry into force of this Treaty, and the date of receipt of any requests for convening a conference or other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to article 102 of the Charter of the United Nations.[4]

ARTICLE X

1. Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

2. Twenty-five years after the entry into force of the Treaty, a conference shall be convened to decide whether the Treaty shall continue in force indefinitely, or shall be extended for an addition-

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[4] See page 707 of text.

al fixed period or periods. This decision shall be taken by a majority of the Parties of the Treaty.

ARTICLE XI

This Treaty, the English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Government of the signatory and acceding States.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed this Treaty.

DONE in triplicate, at the cities of Washington, London, and Moscow, the first day of July one thousand nine hundred sixty-eight.

c. Prohibition of Nuclear Weapons in Latin America

(1) Additional Protocol II[1]

Done at Mexico February 14, 1967; Ratification advised by the Senate of the United States of America, with understandings and declarations, April 19, 1971; Ratified by the President of the United States of America, with said understandings and declarations, May 8, 1971; Ratification of the United States of America deposited at Mexico, with said understandings and declarations, May 12, 1971; Proclaimed by the President of the United States of America June 11, 1971; Entered into force with respect to the United States of America May 12, 1971

The undersigned Plenipotentiaries, furnished with full powers by their respective Governments,

Convinced, That the Treaty for the Prohibition of Nuclear Weapons in Latin America, negotiated and signed in accordance with the recommendations of the General Assembly of the United Nations in Resolution 1911 (XVIII) of 27 November 1963, represents an important step towards ensuring the non-proliferation of nuclear weapons,

Aware, That the non-proliferation of nuclear weapons is not an end in itself but, rather, a means of achieving general and complete disarmament at a later stage, and

Desiring, To contribute, so far as lies in their power, towards ending the armaments race, especially in the field of nuclear weapons, and towards promoting and strengthening a world at peace, based on mutual respect and sovereign equality of States,

Have agreed as follows:

Article 1. The statute of denuclearization of Latin America in respect of warlike purposes, as defined, delimited and set forth in the Treaty for the Prohibition of Nuclear Weapons in Latin America of which this instrument is an annex, shall be fully respected by the Parties to this Protocol in all its express aims and provisions.

Article 2. The Governments represented by the undersigned Plenipotentiaries undertake, therefore not to contribute in any way to the performance of acts involving a violation of the obligations of article 1 of the Treaty in the territories to which the Treaty applies in accordance with article 4 thereof.

Article 3. The Governments represented by the undersigned Plenipotentiaries also undertake not to use or threaten to use nuclear weapons against the Contracting Parties of the Treaty for the Prohibition of Nuclear Weapons in Latin America.

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[1] 22 UST 754; TIAS 7137; 634 UNTS 634; The United States is not a party to the Treaty for the Prohibition of Nuclear Weapons in Latin America. The United States has ratified Additional Protocols I and II. France, the People's Republic of China, the Soviet Union and the United Kingdom are the other parties of Protocol II.

Article 4. The duration of this Protocol shall be the same as that of the Treaty for the Prohibition of Nuclear Weapons in Latin America of which this Protocol is an annex, and the definitions of territory and nuclear weapons set forth in articles 3 and 5 of the Treaty shall be applicable to this Protocol, as well as the provisions regarding ratification, reservations, denunciation, authentic texts and registration contained in articles 26, 27, 30 and 31 of the Treaty.

Article 5. This Protocol shall enter into force, for the States which have ratified it, on the date of the deposit of their respective instruments of ratification.

In witness whereof, the undersigned Plenipotentiaries, having deposited their full powers, found to be in good and due form, sign this Additional Protocol on behalf of their respective Governments.

(2) Understandings and Declarations Included in the U.S. Instrument of Ratification [1]

I

That the United States Government understands the reference in Article 3 of the treaty to "its own legislation" to relate only to such legislation as is compatible with the rules of international law and as involves an exercise of sovereignty consistent with those rules, and accordingly that ratification of Additional Protocol II by the United States Government could not be regarded as implying recognition, for the purposes of this treaty and its protocols or for any other purpose, of any legislation which did not, in the view of the United States, comply with the relevant rules of international law.

That the United States Government takes note of the Preparatory Commission's interpretation of the treaty, as set forth in the Final Act, that, governed by the principles and rules of international law, each of the Contracting Parties retains exclusive power and legal competence, unaffected by the terms of the treaty, to grant or deny non-Contracting Parties transit and transport privileges.

That as regards the undertaking in Article 3 of Protocol II not to use or threaten to use nuclear weapons against the Contracting Parties, the United States Government would have to consider that an armed attack by a Contracting Party, in which it was assisted by a nuclear-weapon state, would be incompatible with the Contracting Party's corresponding obligations under Article I of the treaty.

II

That the United States Government considers that the technology of making nuclear explosive devices for peaceful purposes is indistinguishable from the technology of making nuclear weapons, and that nuclear weapons and nuclear explosive devices for peaceful purposes are both capable of releasing nuclear energy in an uncontrolled manner and have the common group of characteristics of large amounts of energy generated instantaneously from a compact source. Therefore the United States Government understands the definition contained in Article 5 of the treaty as necessarily encompassing all nuclear explosive devices. It is also understood that Articles 1 and 5 restrict accordingly the activities of the Contracting Parties under paragraph 1 of Article 18.

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[1] 22 UST 760.

That the United States Government understands that paragraph 4 of Article 18 of the treaty permits, and that United States adherence to Protocol II will not prevent, collaboration by the United States with Contracting Parties for the purpose of carrying out explosions of nuclear devices for peaceful purposes in a manner consistent with a policy of not contributing to the proliferation of nuclear weapons capabilities. In this connection, the United States Government notes Article V of the Treaty on the Non-Proliferation of Nuclear Weapons, under which it joined in an undertaking to take appropriate measures to ensure that potential benefits of peaceful applications of nuclear explosions would be made available to non-nuclear-weapon states party to that treaty, and reaffirms its willingness to extend such undertaking, on the same basis, to states precluded by the present treaty from manufacturing or acquiring any nuclear explosive device.

III

That the United States Government also declares that, although not required by Protocol II, it will act with respect to such territories of Protocol I adherents as are within the geographical area defined in paragraph 2 of Article 4 of the treaty in the same manner as Protocol II requires it to act with respect to the territories of Contracting Parties.

The President ratified Additional Protocol II on May 8, 1971, with the above-recited understandings and declarations, in pursuance of the advice and consent of the Senate.

It is provided in Article 5 of Additional Protocol II that the Protocol shall enter into force, for the States which ratified it, on the date of the deposit of their respective instruments of ratification.

The instrument of ratification of the United Kingdom of Great Britain and Northern Ireland was deposited on December 11, 1969 with understandings and a declaration, and the instrument of ratification of the United States of America was deposited on May 12, 1971 with the above-recited understandings and declarations.

In accordance with Article 5 of Additional Protocol II, the Protocol entered into force for the United States of America on May 12, 1971, subject to the above-recited understandings and declarations.

(3) Additional Protocol I[1]

Done at Mexico February 14, 1967; Ratification advised by the Senate of the United States of America, with understandings, November 13, 1981; Ratification of the United States of America deposited at Mexico, with said understandings, November 23, 1981; Entered into force with respect to the United States of America November 23, 1981.

The undersigned Plenipotentiaries, furnished with full powers by their respective Governments,

Convinced that the Treaty for the Prohibition of Nuclear Weapons in Latin America, negotiated and signed in accordance with the recommendations of the General Assembly of the United Nations in Resolution 1911 (XVIII) of 27 November 1963, represents an important step towards ensuring the non-proliferation of nuclear weapons.

Aware that the non-proliferation of nuclear weapons is not an end in itself but, rather, a means of achieving general and complete disarmament at a later stage, and

Desiring to contribute, so far as lies in their power, towards ending the armaments race, especially in the field of nuclear weapons, and towards strengthening a world at peace, based on mutual respect and sovereign equality of States,

Have agreed as follows:

Article 1. To undertake to apply the statute of denuclearization in respect of warlike purposes as defined in articles 1, 3, 5 and 13 of the Treaty for the Prohibition of Nuclear Weapons in Latin America in territories for which, *de jure* or *de facto,* they are internationally responsible and which lie within the limits of the geographical zone established in that Treaty.

Article 2. The duration of this Protocol shall be the same as that of the Treaty for the Prohibition of Nuclear Weapons in Latin America of which this Protocol is an annex, and the provisions regarding ratification and denunciation contained in the Treaty shall be applicable to it.

Article 3. This Protocol shall enter into force, for the States which have ratified it, on the date of the deposit of their respective instruments of ratification.

In witness whereof the undersigned Plenipotentiaries, having deposited their full powers, found in good and due form, sign this Protocol on behalf of their respective Governments.

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[1] The United States is not a party to the Treaty for the Prohibition of Nuclear Weapons in Latin America (the Treaty of Tlatelolco) but has ratified additional Protocols I and II to such treaty. See page 40, vol. III for text of additional Protocol II, page 44 for the text of Protocol I, and page 47 of this volume for the complete text of the Treaty of Tlatelolco.

(4) Resolution of Ratification in the Senate, with Understandings

Resolved (two-thirds of the Senate present concurring, th[illegible]), That the Senate advise and consent to the ratification of Add[illegible]al Protocol I to the Treaty for the Prohibition of Nuclear Weapons in Latin America, also known as the Treaty of Tlatelolco, signed on behalf of the United States of America on May 26, 1977 subject to the following understandings:

(1) That the provisions of the Treaty made applicable by this Additional Protocol do not affect the exclusive power and legal competence under international law of a State adhering to this Protocol to grant or deny transit and transport privileges to its own or any other vessels or aircraft irrespective of cargo or armaments.

(2) That the provisions of the Treaty made applicable by this Additional Protocol do not affect rights under international law of a State adhering to this Protocol regarding the exercise of the freedom of the seas, of regarding passage through or over waters subject to the sovereignty of a State.

(3) That the understanding and declaration attached by the United States to its ratification of Additional Protocol II apply also to its ratification of Additional Protocol I as follows:

> I. That the United States Government understands the reference in Article 3 of the treaty to "its own legislation to relate only to such legislation as is compatible with the rules of international law and as involves an exercise of sovereignty consistent with those rules, and accordingly that ratification of Additional Protocol II by the United States Government could not be regarded as implying recognition, for the purpose of this treaty and its protocols, or for any other purpose, of any legislation which did not, in the view of the United States, comply with the relevant rules of international law.
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> That the United States Government takes note to the Preparatory Commission's interpretation of the treaty, as set forth in the Final Act, that, governed by the principles and rules of international law, each of the contracting parties retains exclusive power and legal competence, unaffected by the terms of the treaty, to grant or deny non-contracting parties transit and transport privileges.
>
> That as regards the undertaking in article 3 of Protocol II not to use or threaten to use nuclear weapons against the Contracting Parties, the United States Government would have to consider that an armed attack by a Contracting Party, in which it was assisted by a nuclear-weapon state, would be incompatible with the Contracting Party's corresponding obligations under Article 1 of the treaty.

II. That the United States Government considers that the technology of making nuclear explosive devices for peaceful purposes is indistinguishable from the technology of making nuclear weapons, and that nuclear weapons and nuclear explosive devices for peaceful purposes are both capable of releasing nuclear energy in an uncontrolled manner and have the common group of characteristics of large amounts of energy, generated instantaneously from a compact source. Therefore the United States Government understands the definition contained in Article 5 of the treaty as necessarily encompassing all nuclear explosive devices. It is also understood that Articles 1 and 5 restrict accordingly the activities of the contracting parties under paragraph 1 of Article 18.

That the United States Government understands that paragraph 4 of Article 18 of the treaty permits, and that United States adherence to Protocol II will not prevent, collaboration by the United States with contracting parties for the purpose of carrying out explosions of nuclear devices for peaceful purposes in a manner consistent with a policy of not contributing to the proliferation of nuclear weapons capabilities. In this connection, the United States Government notes Article V of the Treaty on the Non-Proliferation of Nuclear Weapons, under which it joined in an undertaking to take appropriate measures to ensure that potential benefits of peaceful applications of nuclear explosions would be made available to non-nuclear-weapons states party to that treaty, and reaffirms its willingness to extend such undertaking, on the same basis, to states precluded by the present treaty from manufacturing or acquiring any nuclear explosive device.

III. That the United States Government also declares that, although not required by Protocol II, it will act with respect to such territories of Protocol I adherents as are within the geographical area defined in paragraph 2 of Article 4 of the treaty in the same manner as Protocol II requires to act with respect to the territories of contracting parties.

(5) Treaty for the Prohibition of Nuclear Weapons in Latin America [1]

Done at Mexico, February 14, 1967

Preamble

In the same of their peoples and faithfully interpreting their desires and aspirations, the Governments of the States which sign the Treaty for the Prohibition of Nuclear Weapons in Latin America,

Desiring to contribute, so far as lies in their power, towards ending the armaments race, especially in the field of nuclear weapons, and toward strengthening a world at peace, based on the sovereign equality of States, mutual respect and good neighbourliness,

Recalling that the United Nations General Assembly, in its Resolution 808 (IX), adopted unanimously as one of the three points of a coordinated programme of disarmament "the total prohibition of the use and manufacture of nuclear weapons and weapons of mass destruction of every type",

Recalling that militarily denuclearized zones are not an end in themselves but rather a means for achieving general and complete disarmament at a later stage,

Recalling United Nations General Assembly Resolution 1911 (XVIII), which established that the measures that should be agreed upon for the denuclearization of Latin America should be taken "in the light of the principles of the Charter of the United Nations and of regional agreements",

Recalling United Nations General Assembly Resolution 2028 (XX), which established the principle of an acceptable balance of mutual responsibilities and duties for the nuclear and non-nuclear powers, and

Recalling that the Charter of the Organization of American States proclaims that it is an essential purpose of the Organization to strengthen the peace and security of the hemisphere.

Convinced:

That the incalculable destructive power of nuclear weapons has made it imperative that the legal prohibition of war should be strictly observed in practice if the survival of civilization and of mankind itself is to be assured,

That nuclear weapons, whose terrible effects are suffered, indiscriminately and inexorably, by military forces and civilian population alike, constitute, through the persistence of the radioactivity they release, an attack on the integrity of the human species and ultimately may even render the whole earth uninhabitable,

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[1] The United States is not a party to this treaty. However, the United States is a party to Additional Protocols I and II of this treaty which refer to specific articles of the treaty. Additional Protocol I can be found on page 44 while the text of American Protocol II is located on page 40 of vol. III.

That general and complete disarmament under effective international control is a vital matter which all the peoples of the world equally demand,

That the proliferation of nuclear weapons, which seems inevitable unless States, in the exercise of the sovereign rights, impose restrictions on themselves in order to prevent it, would make any agreement on disarmament enormously difficult and would increase the danger of the outbreak of a nuclear conflagration,

That the establishment of militarily denuclearized zones is closely linked with the maintenance of peace and security in the respective regions,

That the military denuclearization of vast geographical zones, adopted by the sovereign decision of the States comprised therein, will exercise a beneficial influence on other regions where similar conditions exist,

That the privileged situation of the signatory States, whose territories are wholly free from nuclear weapons, imposes upon them the inescapable duty of preserving that situation both in their own interests and for the good of mankind,

That the existence of nuclear weapons in any country of Latin America would make it a target for possible nuclear attacks and would inevitably set off, throughout the region, a ruinous race in nuclear weapons which would involve the unjustifiable diversion, for warlike purposes, of the limited resources required for economic and social development,

That the foregoing reasons, together with the traditional peace-loving outlook of Latin America, give rise to an inescapable necessity that nuclear energy should be used in that region exclusively for peaceful purposes, and that the Latin American countries should use their right to the greatest and most equitable possible access to this new source of energy in order to expedite the economic and social development of their peoples,

Convinced finally:

That the military denuclearization of Latin American—being understood to mean the undertaking entered into internationally in this Treaty to keep their territories forever free from nuclear weapons—will constitute a measure which will spare their peoples from the squandering of their limited resources on nuclear armaments and will protect them against possible nuclear attacks on their territories, and will also constitute a significant contribution towards preventing the proliferation of nuclear weapons and a powerful factor for general and complete disarmament, and

That Latin America, faithful to its tradition of universality, must not only endeavour to banish from its homelands the scourge of a nuclear war, but must also strive to promote the well-being and advancement of its peoples, at the same time co-operating in the fulfillment of the ideals of mankind, that is to say, in the consolidation of a permanent peace based on equal rights, economic fairness and social justice for all, in accordance with the principles and purposes set forth in the Charter of the United Nations and in the Charter of the Organization of American States, *Have agreed as follows:*

Obligations.

Article 1

1. The Contracting Parties hereby undertake to use exclusively for peaceful purposes the nuclear material and facilities which are under their jurisdiction, and to prohibit and prevent in their respective territories:

(a) The testing, use, manufacture, production or acquisition by any means whatsoever of any nuclear weapons, by the Parties themselves, directly or indirectly, on behalf of anyone else or in any way, and

(b) The receipt, storage, installation, deployment and any form of possession of any nuclear weapons, directly, or indirectly, by the Parties themselves, by anyone on their behalf or in any other way.

2. The Contracting Parties also undertake to refrain from engaging in, encouraging or authorizing, directly or indirectly, or in any way participating in the testing, use, manufacture, production, possession or control of any nuclear weapons.

Definition of the Contracting Parties

Article 2

For the purposes of this Treaty the Contracting Parties are those for whom the Treaty is in force.

Definition of territory

Article 3

For the purposes of this Treaty, the term "territory" shall include the territorial sea, air space and any other space over which the State exercises sovereignty in accordance with its own legislation.

Zone of application

Article 4

1. The zone of application of this Treaty is the whole of the territories for which the Treaty is in force.

2. Upon fulfillment of the requirements of article 28, paragraph 1, the zone of application of this Treaty shall also be that which is situated in the western hemisphere within the following limits (except the continental part of the territory of the United States of America and its territorial waters): starting at a point located at 35° north latitude, 75° west longitude; from this point directly southward to a point at 30° north latitude, 75° west longitude; from there, directly eastward to a point at 30° north latitude, 50° west longitude; from there, along a loxodromic line to a point at 5° north latitude, 20° west longitude; from there, directly southward to a point at 60° south latitude, 20° west longitude; from there, directly westward to a point at 60° south latitude, 115° west longitude; from there, directly northward to a point at 0 latitude, 115°

west longitude; from there, along a loxodromic line to a point at 35° north latitude, 150° west longitude; from there directly eastward to a point at 35° north latitude, 75° west longitude.

Definition of nuclear weapons

ARTICLE 5

For the purposes of this Treaty, a nuclear weapon is any device which is capable of releasing nuclear energy in an uncontrolled manner and which has a group of characteristics that are appropriate for use for warlike purposes. An intrument that may be used for the transport or propulsion of the device is not included in this definition if it is separable from the device and not an indivisible part thereof.

Meeting of signatories

ARTICLE 6

At the request of any of the signatory States of it the Agency established by article 7 should so decide, a meeting of all the signatories may be convoked to consider in common questions which may affect the very essence of this instrument, including possible amendments to it. In either case, the meeting will be convoked by the General Secretary.

Organization

ARTICLE 7

1. In order to ensure compliance with the obligations of this Treaty, the Contracting Parties hereby establish an international organization to be known as the "Agency for the Prohibition of Nuclear Weapons in Latin America," hereinafter referred to as "the Agency." Only the Contracting Parties shall be affected by its decisions.

2. The Agency shall be responsible for the holding of periodic or extraordinary consultations among Member States on matters relating to the purposes, measures and procedures set forth in this Treaty and to the supervision of compliance with the obligations arising therefrom.

3. The Contracting Parties agree to extend to the Agency full and prompt co-operation in accordance with the provisions of this Treaty, of any agreements they may conclude with the Agency and of any agreements the Agency may conclude with any other international organization or body.

4. The headquarters of the Agency shall be in Mexico City.

Organs

ARTICLE 8

1. There are hereby established as principal organs of the Agency a General Conference, a Council and a Secretariat.

2. Such subsidiary organs as are considered necessary by the General Conference may be established within the purview of this Treaty.

The General Conference

ARTICLE 9

1. The General Conference, the supreme organ of the Agency, shall be composed of all the Contracting Parties; it shall hold regular sessions every two years, and may also hold special sessions whenever this Treaty so provides or, in the opinion of the Council the circumstances so require.

2. The General Conference:

(a) May consider and decide on any matters or questions covered by this Treaty, within the limits thereof, including those referring to powers and functions of any organ provided for in this Treaty.

(b) Shall establish procedures for the control system to ensure observance of this Treaty in accordance with its provisions.

(c) Shall elect the Members of the Council and the General Secretary.

(d) May remove the General Secretary from office if the proper functioning of the Agency so requires.

(e) Shall receive and consider the biennial and special reports submitted by the Council and General Secretary.

(f) Shall initiate and consider studies designed to facilitate the optimum fulfillment of the aims of this treaty, without prejudice to the power of the General Secretary independently to carry out similar studies for submission and to consideration by the Conference.

(g) Shall be the organ competent to authorize the conclusion of agreements with Governments and other international organization and bodies.

3. The General Conference shall adopt the Agency's budget and fix the scale of financial contributions to be paid by Member States, taking into account the systems and criteria used for the same purpose by the United Nations.

4. The General Conference shall elect its officers for each session and may establish such subsidiary organs as it deems necessary for the performance of its functions.

5. Each Member of the Agency shall have one vote. The decisions of the General Conference shall be taken by a two-thirds majority of the Members present and voting in the case of matters relating to the control system and measures referred to in article 20, the admission of new Members, the election or removal of the General Secretary, adoption of the budget and matters related thereto. Decisions on other matters, as well as procedurel questions and also determination of which questions must be decided by a two-thirds majority, shall be taken by a simple majority of the Members present and voting.

6. The General Conference shall adopt its own rules procedure.

The Council

ARTICLE 10

1. The Council shall be composed of five Members of the Agency elected by the General Conference from among the Contracting Parties, due account being taken of equitable geographic distribution.

2. The Members of the Council shall be elected for a term of four years. However, in the first election three will be elected for two years. Outgoing Members may not be re-elected for the following period unless the limited number of States for which the Treaty is in force so requires.

3. Each Member of the Council shall have one representative.

4. The Council shall be so organized as to be able to function continuously.

5. In addition to the functions conferred upon it by this Treaty and to those which may be assigned to it by the General Conference, the Council shall, through the General Secretary, ensure the proper operation of the control system in accordance with the provisions of this Treaty and with the decisions adopted by the General Conference.

6. The Council shall submit an annual report on its work to the General Conference as well as such special reports as it deems necessary or which the General Conference requests of it.

7. The Council shall elect its officers for each session.

8. The decisions of the Council shall be taken by a simple majority of its Members present and voting.

9. The Council shall adopt its own rules of procedure.

The Secretariat

ARTICLE 11

1. The Secretariat shall consist of a General Secretary, who shall be the chief administrative officer to the Agency, and of such staff as the agency may require. The term of office of the General Secretary shall be four years and he may be re-elected for a single additional term. The General Secretary may not be a national of the country in which the Agency has its headquarters. In case the office of General Secretary becomes vacant, a new election shall be held to fill the office for the remainder of the term.

2. The staff of the Secretariat shall be appointed by the General Secretary, in accordance with rules laid down by the General Conference.

3. In addition to the functions conferred upon him by this Treaty and to those which may be assigned to him by the General Conference—the General Secretary shall ensure, as provided by article 10, paragraph 5, the proper operation of the control system established by this Treaty, in accordance with the provisions of the Treaty and the decisions taken by the General Conference.

4. The General Secretary shall act in that capacity in all meetings of the General Conference and of the Council and shall make an annual report to both bodies on the work of the Agency and any

special reports requested by the General Conference or the Council or which the General Secretary may deem desirable.

5. The General Secretary shall establish the procedures for distributing to all Contracting Parties information received by the Agency from governmental sources and such information from nongovernmental sources as may be of interest to the Agency.

6. In the performance of their duties the General Secretary and the staff shall not seek or receive instructions from any Government or from any other authority external to the Agency and shall refrain from any action which might reflect on their position as international officials responsible only to the Agency; subject to their responsibility to the Agency, they shall not disclose any industrial secrets or other confidential information coming to their knowledge by reason of their official duties in the Agency.

7. Each of the Contracting Parties undertakes to respect the exclusively international character of the responsibilities of the General Secretary and the staff and not to seek to influence them in the discharge of their responsibilities.

Control system

ARTICLE 12

1. For the purpose of verifying compliance with the obligations entered into by the Contracting Parties in accordance with article 1, a control system shall be established which shall be put into effect in accordance with the provisions of articles 13–18 of this Treaty.

2. The control system shall be used in particular for the purpose of verifying:

(a) That devices, services and facilities intended for peaceful uses of nuclear energy are not used in the testing or manufacture of nuclear weapons,

(b) That none of the activities prohibited in article 1 of this Treaty are carried out in the territory of the Contracting Parties with nuclear materials or weapons introduced from abroad, and

(c) That explosions for peaceful purposes are compatible with article 18 of this Treaty.

IAEA safeguards

ARTICLE 13

Each Contracting Party shall negotiate multilateral or bilateral agreements with the International Atomic Energy Agency for the application of its safeguards to its nuclear activities. Each Contracting Party shall initiate negotiations within a period of 180 days after the date of the deposit of its instrument of ratification of this Treaty. These agreements shall enter into force, for each Party, not later than eighteen months after the date of the initiation of such negotiations except in case of unforeseen circumstances or *force majeure*.

Reports of the Parties

ARTICLE 14

1. The Contracting Parties shall submit to the Agency and to the International Atomic Energy Agency, for their information, semi-annual reports stating that no activity prohibited under this Treaty has occurred in their respective territories.

2. The Contracting Parties shall simultaneously transmit to the Agency a copy of any report they may submit to the International Atomic Energy Agency which relates to matters that are the subject of this Treaty and to the application of safeguards.

3. The Contracting Parties shall also transmit to the Organization of American States, for its information, any reports that may be of interest to it, in accordance with the obligations established by the Inter-American System.

Special reports requested by the General Secretary

ARTICLE 15

1. With the authorization of the Council, the General Secretary may request any of the Contracting Parties to provide the Agency with complementary or supplementary information regarding any event or circumstance connected with compliance with this Treaty, explaining his reasons. The Contracting Parties undertake to co-operate promptly and fully with the General Secretary.

2. The General Secretary shall inform the Council and the Contracting Parties forthwith of such requests and of the respective replies.

Special inspections

ARTICLE 16

1. The International Atomic Energy Agency and the Council established by this Treaty have the power of carrying out special inspections in the following cases:

(a) In the case of the International Atomic Energy Agency, in accordance with the agreements referred to in article 13 of this Treaty:

(b) In the case of the Council:

(i) When so requested, the reasons for the request being stated, by any Party which suspects that some activity prohibited by this Treaty has been carried out or is about to be carried out, either in the territory of any other Party or in any other place on such latter Party's behalf, the Council shall immediately arrange for such an inspection in accordance with article 10, paragraph 5.

(ii) When requested by any Party which has been suspected of or charged with having violated this Treaty, the Council shall immediately arrange for the special inspection requested in accordance with article 10, paragraph 5.

The above requests will be made to the Council through the General Secretary.

2. The costs and expenses of any special inspection carried out under paragraph 1, sub-paragraph (b), sections (i) and (ii) of this article shall be borne by the requesting Party or Parties, except where the Council concludes on the basis of the report on the special inspection that, in view of the circumstances existing in the case, such costs and expenses should be borne by the Agency.

3. The General Conference shall formulate the procedures for the organization and execution of the special inspections carried out in accordance with paragraph 1, sub-paragraph (b), sections (i) and (ii) of this article.

4. The Contracting Parties undertake to grant the inspectors carrying out such special inspections full and free access to all places and all information which may be necessary for the performance of their duties and which are directly and intimately connected with the suspicion of violating this Treaty. If so requested by the authorities of the Contracting Party in whose territory the inspection is carried out, the inspectors designated by the General Conference shall be accompanied by representatives of said authorites, provided that this does not in any way delay or hinder the work of the inspectors.

5. The Council shall immediately transmit to all the Parties through the General Secretary, a copy of any report resulting from special inspections.

6. Similarly, the Council shall send through the General Secretary to the Secretary-General of the United Nations, for transmission to the United Nations Security Council and General Assembly, and to the Council of the Organization of American States, for its information, a copy of any report resulting from any special inspection carried out in accordance with paragraph 1, sub-paragraph (b), sections (i) and (ii) of this article.

7. The Council may decide, or any Contracting Party may request, the convening of a special session of the General Conference for the purpose of considering the reports resulting from any special inspection. In such a case, the General Secretary shall take immediate steps to convene the special session requested.

8. The General Conference, convened in special session under this article, may make recommendations to the Contracting Parties and submit reports to the Secretary-General of the United Nations to be transmitted to the United Nations Security Council and the General Assembly.

Use of nuclear energy for peaceful purposes

ARTICLE 17

Nothing in the provisions of this Treaty shall prejudice the rights of the Contracting Parties, in conformity with this Treaty, to use nuclear energy for peaceful purposes, in particular for their economic development and social progress.

Explosions for peaceful purposes

ARTICLE 18

1. The Contracting Parties may carry out explosions of nuclear devices for peaceful purposes—including explosions which involve

devices similar to those used in nuclear weapons—or collaborate with third parties for the same purpose, provided that they do so in accordance with the provisions of this article and the other articles of the Treaty, particularly articles 1 and 5.

2. Contracting Parties intending to carry out, or to co-operate in carrying out, such an explosion shall notify the Agency and the International Atomic Energy Agency, as far in advance as the circumstances require, of the date of the explosion and shall at the same time provide the following information:

(a) The nature of the nuclear device and the source from which it was obtained,

(b) The place and purpose of the planned explosion,

(c) The procedures which will be followed in order to comply with paragraph 3 of this article,

(d) The expected force of the device, and

(e) The fullest possible information on any possible radioactive fall-out that may result from the explosion or explosions, and measures which will be taken to avoid danger to the population, flora, fauna and territories of any other Party or Parties.

3. The General Secretary and the technical personnel designated by the Council and the International Atomic Energy Agency may observe all the preparations, including the explosion of the device, and shall have unrestricted access to any area in the vicinity of the site of the explosion in order to ascertain whether the device and the procedures followed during the explosion are in conformity and the information supplied under paragraph 2 of this article and the other provisions of this Treaty.

4. The Contracting Parties may accept the collaboration of third parties for the purpose set forth in paragraph 1 of the present article, in accordance with paragraphs 2 and 3 thereof.

Relations with other international organizations

ARTICLE 19

1. The Agency may conclude such agreements with the International Atomic Energy Agency as are authorized by the General conference and as it considers likely to facilitate the efficient operation of the control system established by this Treaty.

2. The Agency may also enter into relations with any international organization or body, especially any which may be established in the future to supervise disarmament or measures for the control of armaments in any part of the world.

3. The Contracting Parties may, if they see fit, request the advice of the Inter-American Nuclear Energy Commission on all technical matters connected with the application of this Treaty with which the Commission is competent to deal under its Statute.

Measures in the event of violation of the Treaty

ARTICLE 20

1. The General Conference shall take note of all cases in which, in its option, any Contracting Party is not complying fully with its obligations under this Treaty and shall draw the matter to the at-

tention of the Party concerned, making such recommendations as it deems appropriate.

2. If, in its opinion, such non-compliance constitutes a violation of this Treaty which might endanger peace and security, the General Conference shall report thereon simultaneously to the United Nations Security Council and the General Assembly through the Secretary-General of the United Nations, The General Conference shall likewise report to the International Atomic Energy Agency for such purposes as are relevant in accordance with its Statute.

United Nations and Organization of American States

ARTICLE 21

None of the provisions of this Treaty shall be construed as impairing the rights and obligations of the Parties under the Charter of the United Nations or, in the case of the States Members of the Organization of American States, under existing regional treaties.

Privileges and immunities

ARTICLE 22

1. The Agency shall enjoy in the territory of each of the Contracting Parties such legal capacity and such privileges and immunities as may be necessary for the exercise of its functions and the filfilment of its purposes.

2. Representatives of the Contracting Parties accredited to the Agency and officials of the Agency shall similarly enjoy such privileges and immunities as are necessary for the performance of their functions.

3. The Agency may conclude agreements with the Contracting Parties with a view to determining the details of the application of paragraphs 1 and 2 of this article.

Notification of other agreements

ARTICLE 23

Once this Treaty has entered into force, the Secretariat shall be notified immediately of any international agreement concluded by any of the Contracting Parties on matters with which this Treaty is concerned; the Secretariat shall register it and notify the other Contracting Parties.

Settlement of disputes

ARTICLE 24

Unless the Parties concerned agree on another mode of peaceful settlement, any question or dispute concerning the interpretation or application of this Treaty which is not settled shall be referred to the International Court of Justice with the prior consent of the Parties to the controversy.

Signature

Article 25

1. This Treaty shall be open indefinitely for signature by:

(a) All the Latin American Republics, and

(b) All other sovereign States situated in their entirety south of latitude 35° north in the western hemisphere; and, except as provided in paragraph 2 of this article, all such States which become sovereign, when they have been admitted by the General Conference.

2. The General Conference shall not take any decision regarding the admission of a political entity part or all of whose territory is the subject, prior to the date when this Treaty is opened for signatures of a dispute or claim between an extra-continental country and one or more Latin American States, so long as the dispute has not been settled by peaceful means.

Ratification and deposit

Article 26

1. This Treaty shall be subject to ratification by signatory States in accordance with their respective constitutional procedures.

2. This Treaty and the instruments of ratification shall be deposited with the Government of the Mexican United States, which is hereby designated the Depositary Government.

3. The Depositary Government shall send certified copies of this Treaty of the Governments of Signatory States and shall notify them of the deposit of each instrument of ratification.

Reservations

Article 27

This Treaty shall not be subject to reservations.

Entry into force

Article 28

1. Subject to the provisions of paragraaph 2 of this article this Treaty shall enter into force among the States that have ratified it as soon as the following requirements have been met:

(a) Deposit of the instruments of ratification of this Treaty with the Depositary Government by the Governments of the States mentioned in article 25 which are in existence on the date when this Treaty is opened for signature and which are not affected by the provisions of article 25, paragraph 2;

(b) Signature and ratification of Additional Protocol I annexed to this Treaty by all extra-continental or continental States having *de jure* or *de facto* international responsibility for territories situated in the zone of application of the Treaty;

(c) Signature and ratification of the Additional Protocol II annexed to this Treaty by all powers possessing nuclear weapons;

(d) Conclusion of bilateral or multilateral agreements on the application of the Safeguards System of the International Atomic Energy Agency in accordance with article 13 of this Treaty.

2. All signatory States shall have the imprescriptible right to waive, wholly or in part, the requirements laid down in the preceding paragraph. They may do so by means of a declaration which shall be annexed to their respective instrument of ratification and which may be formulated at the time of deposit of the instrument or subsequently. For these States which exercise this right, this Treaty shall enter into force upon deposit of the declaration, or as soon as those requirements have been met which have not been expressly waived.

3. As soon as this Treaty has entered into force in accordance with the provisions of paragraph 2 for eleven States, the Depositary Government shall convene a preliminary meeting of those States in order that the Agency may be set up and commence its work.

4. After the entry into force of this Treaty for all the countries of the zone, the rise of a new power possessing nuclear weapons shall have the effect of suspending the execution of this Treaty for those countries which have ratified it without waiving requirements of paragraph 1, sub-paragraph (c) of this article, and which request such suspension; the Treaty shall remain suspended until the new power on its own initiative or upon request by the General Conference, ratifies the annexed Additional Protocol II.

Amendments

ARTICLE 29

1. Any Contracting Party may propose amendments to this Treaty and shall submit its proposals to the Council through the General Secretary, who shall transmit them to all the other Contracting Parties and, in addition, to all other signatories in accordance with article 6. The Council, through the General Secretary, shall immediately following the meeting of signatories convene a special session of the General Confernce to examine the proposals made, for the adoption of which a two-thirds majority of the Contracting parties present and voting shall be required.

2. Amendments adopted shall enter into force as soon as the requirements set forth in article 28 of this Treaty have been complied with.

Duration and denunication

ARTICLE 30

1. This Treaty shall be of a permanent nature and shall remain in force indefinitely, but any Party may denounce it by notifying the General Secretary of the Agency if, in the opinion of the denouncing State, there have arisen or may arise circumstances connected with the content of this Treaty or of the annexed Additional Protocols I and II which affect its supreme interest or the peace and security of one or more Contracting Parties.

2. The denunciation shall take effect three months after the delivery to the General Secretary of the Agency of the notification to the other Contracting Parties and to the Secretary-General of the United Nations for the information of the United Nations Security Council and the General Assembly. He shall also communicate it to the Secretary-General of the Organization of American States.

Authentic texts and registration

ARTICLE 31

This Treaty, of which the Spanish, Chinese, English, French, Portuguese and Russian texts are equally authentic, shall be registered by the Depositary Government in accordance with article 102 of the United Nations Charter. The Depositary Government shall notify the Secretary-General of the United Nations of the signatures, ratifications and amendments relating to this Treaty and shall communicate them to the Secretary-General of the Organization of American States for its information.

TRANSITIONAL ARTICLE

Denunication of the declaration referred to in article 28, paragraph 2, shall be subject to the same procedures as the denunication of this Treaty, except that it will take effect on the date of delivery of the respective notification.

In witness whereof the undersigned Plenipotentiaries, having deposited their full powers, found in good and due form, sign this Treaty on behalf of their respective Governments.

Done at Mexico, Distrito Federal, on the Fourteenth day of February, one thousand nine hundred and sixty-seven.

d. Agreement on Measures To Reduce the Risk of Outbreak of Nuclear War Between the United States of America and the Union of Soviet Socialist Republics[1]

Signed at Washington September 30, 1971; Entered into force September 30, 1971

The United States of America and the Union of Soviet Socialist Republics, hereinafter referred to as the Parties:

Taking into account the devastating consequences that nuclear war would have for all mankind, and recognizing the need to exert every effort to avert the risk of outbreak of such a war, including measures to guard against accidental or unauthorized use of nuclear weapons,

Believing that agreement on measures for reducing the risk of outbreak of nuclear war serves the interests of strengthening international peace and security, and is in no way contrary to the interests of any other country,

Bearing in mind that continued efforts are also needed in the future to seek ways of reducing the risk of outbreak of nuclear war,

Have agreed as follows:

ARTICLE 1

Each Party undertakes to maintain and to improve, as it deems necessary, its existing organizational and technical arrangements to guard against the accidental or unauthorized use of nuclear weapons under its control.

ARTICLE 2

The Parties undertake to notify each other immediately in the event of an accidental, unauthorized or any other unexplained incident involving a possible detonation of a nuclear weapon which could create a risk of outbreak of nuclear war. In the event of such an incident, the Party whose nuclear weapon in involved will immediately make every effort to take necessary measures to render harmless or destroy such weapon without its causing damage.

ARTICLE 3

The Parties undertake to notify each other immediately in the event of detection by missile warning systems of unidentified objects, or in the event of signs of interference with these systems or with related communications facilities, if such occurrences could create a risk of outbreak of nuclear war between the two countries.

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[1] 22 UST 1590; TIAS 7186.

ARTICLE 4

Each Party undertakes to notify the other Party in advance of any planned missile launches if such launches will extend beyond it national territory in the direction of the other Party.

ARTICLE 5

Each Party, in other situations involving unexplained nuclear incidents, undertakes to act in such a manner as to reduce the possibility of its actions being misinterpreted by the other Party. In any such situation, each Party may inform the other Party or request information when, in its view, this is warranted by the interests of averting the risk of outbreak of nuclear war.

ARTICLE 6

For transmission of urgent information, notifications and requests for information in situations requiring prompt clarification, the Parties shall make primary use of the Direct Communications Link between the Governments of the United States of America and the Union of Soviet Socialist Republics.

For transmission of other information, notifications and requests for information, the Parties, at their own discretion, may use any communications facilities, including diplomatic channels, depending on the degree of urgency.

ARTICLE 7

The Parties undertake to hold consultations, as mutually agreed, to consider questions relating to implementation of the provisions of this Agreement, as well as to discuss possible amendments thereto aimed at further implementation of the purposes of this Agreement.

ARTICLE 8

This Agreement shall be of unlimited duration.

ARTICLE 9

This Agreement shall enter into force upon signature.

DONE at Washington on September 30, 1971, in two copies, each in the English and Russian languages, both texts being equally authentic.

e. Seabed Arms Control Treaty[1]

Done at Washington, London and Moscow February 11, 1971; Ratification advised by the Senate of the United States of America February 15, 1972; Ratified by the President of the United States of America April 26, 1972; Ratification of the United States of America deposited at Washington, London and Moscow May 18, 1972; Entered into force May 18, 1972

The States Parties to this Treaty,

Recognizing the common interest of mankind in the progress of the exploration and use of the seabed and the ocean floor for peaceful purposes,

Considering that the prevention of a nuclear arms race on the seabed and the ocean floor serves the interests of maintaining world peace, reduces international tensions and strengthens friendly relations among States,

Convinced that this Treaty constitutes a step towards the exclusion of the seabed, the ocean floor and the subsoil thereof from the arms race,

Convinced that this Treaty constitutes a step towards a treaty on general and complete disarmament under strict and effective international control, and determined to continue negotiations to this end,

Convinced that this Treaty will further the purposes and principles of the Charter of the United Nations, in a manner consistent with the principles of international law and without infringing the freedoms of the high seas,

Have agreed as follows:

ARTICLE I

1. The States Parties to this Treaty undertake not to emplant or emplace on the seabed and the ocean floor and in the subsoil thereof beyond the outer limit of a seabed zone, as defined in article II, any nuclear weapons or any other types of weapons of mass destruction as well as structures, launching installations or any other facilities specifically designed for storing, testing or using such weapons.

2. The undertakings of paragraph 1 of this article shall also apply to the seabed zone referred to in the same paragraph, except that within such seabed zone, they shall not apply either to the coastal State or to the seabed beneath its territorial waters.

3. The States Parties to this Treaty undertake not to assist, encourage or induce any State to carry out activities referred to in paragraph 1 of this article and not to participate in any other way in such actions.

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[1] 23 UST 701 : TIAS 7337. For a list of states which are parties to the Treaty, see Department of State publication, *Treaties in Force*.

ARTICLE II

For the purpose of this Treaty, the outer limit of the seabed zone referred to in article I shall be coterminous with the twelve-mile outer limit of the zone referred to in part II of the Convention on the Territorial Sea and the Contiguous Zone, signed at Geneva on April 29, 1958, and shall be measured in accordance with the provisions of part I, section II, of that Convention and in accordance with international law.

ARTICLE III

1. In order to promote the objectives of and insure compliance with the provisions of this Treaty, each State Party to the Treaty shall have the right to verify through observation the activities of other States Parties to the Treaty on the seabed and the ocean floor and in the subsoil thereof beyond the zone referred to in article I, provided that observation does not interfere with such activities.

2. If after such observation reasonable doubts remain concerning the fulfillment of the obligations assumed under the Treaty, the State Party having such doubts and the State Party that is responsible for the activities giving rise to the doubts shall consult with a view to removing the doubts. If the doubts persist, the State Party having such doubts shall notify the other States Parties, and the Parties concerned shall cooperate on such further procedures for verification as may be agreed, including appropriate inspection of objects, structures, installations or other facilities that reasonably may be expected to be of a kind described in article I. The Parties in the region of the activities, including any coastal State, and any other Party so requesting, shall be entitled to participate in such consultation and cooperation. After completion of the further procedures for verification, an appropriate report shall be circulated to other Parties by the Party that initiated such procedures.

3. If the State responsible for the activities giving rise to the reasonable doubts is not identifiable by observation of the object, structure, installation or other facility, the State Party having such doubts shall notify and make appropriate inquires of States Parties in the region of the activities and of any other State Party. If it is ascertained through these inquiries that a particular State Party is responsible for the activities, that State Party shall consult and cooperate with other Parties as provided in paragraph 2 of this article. If the identity of the State responsible for the activities cannot be ascertained through these inquiries, then further verification procedures, including inspection, may be undertaken by the inquiring State Party, which shall invite the participation of the Parties in the region of the activities, including any coastal State, and of any other Party desiring to cooperate.

4. If consultation and cooperation pursuant to paragraphs 2 and 3 of this article have not removed the doubts concerning the activities and there remains a serious question concerning fulfillment of the obligations assumed under this Treaty, a State Party may, in accordance with the provisions of the Charter of the United Nations, refer the matter to the Security Council, which may take action in accordance with the Charter.

5. Verification pursuant to this article may be undertaken by any State Party using its own means, or with the full or partial assistance of any other State Party, or through appropriate international procedures within the framework of the United Nations and in accordance with its Charter.

6. Verification activities pursuant to this Treaty shall not interfere with activities of other State Parties and shall be conducted with due regard for rights recognized under international law, including the freedoms of the high seas and the rights of coastal States with respect to the exploration and exploitation of their continental shelves.

ARTICLE IV

Nothing in this Treaty shall be interpreted as supporting or prejudicing the position of any State Party with respect to existing international conventions, including the 1958 Convention on the Territorial Sea and the Contiguous Zone, or with respect to rights or claims which such State Party may assert, or with respect to recognition or nonrecognition of rights or claims asserted by any other State, related to waters off its coasts, including, *inter alia*, territorial seas and contiguous zones, or to the seabed and the ocean floor, including continental shelves.

ARTICLE V

The Parties to this Treaty undertake to continue negotiations in good faith concerning further measures in the field of disarmament for the prevention of an arms race on the seabed, the ocean floor and the subsoil thereof.

ARTICLE VI

Any State Party may propose amendments to this Treaty. Amendments shall enter into force for each State Party accepting the amendments upon their acceptance by a majority of the States Parties to the Treaty and, thereafter, for each remaining State Party on the date of acceptance by it.

ARTICLE VII

Five years after the entry into force of this Treaty, a conference of Parties to the Treaty shall be held at Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the preamble and the provisions of the Treaty are being realized. Such review shall take into account any relevant technological developments. The review conference shall determine, in accordance with the views of a majority of those Parties attending, whether and when an additional review conference shall be convened.

ARTICLE VIII

Each State Party to this Treaty shall in exercising its national sovereignty have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized the supreme interests of its country. It shall give notice to such withdrawal to all other States Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it considers to have jeopardized its supreme interests.

ARTICLE IX

The provisions of this Treaty shall in no way affect the obligations assumed by States Parties to the Treaty under international instruments establishing zones free from nuclear weapons.

ARTICLE X

1. This Treaty shall be open for signature to all States. Any State which does not sign the Treaty before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and of accession shall be deposited with the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, which are hereby designated the Depository Governments.

3. This Treaty shall enter into force after the deposit of instruments of ratification by twenty-two Governments, including the Governments designated as Depositary Governments of this Treaty.

4. For States whose instruments of ratification or accession are deposited after the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform the Governments of all signatory and acceding States of the date of each signature, of the date of deposit of each instrument of ratification or of accession, of the date of the entry into force of this Treaty, and of the receipt of other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.[2]

ARTICLE XI

This Treaty, the English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the States signatory and acceding thereto.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Treaty.

DONE in triplicate, at the cities of Washington, London and Moscow, this eleventh day of February, one thousand nine hundred seventy-one.

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[2] See page 707 of text.

f. SALT Agreements

(1) Joint Resolution on Interim Agreement[1]

Public Law 92-448 [H.J. Res. 1227], 86 Stat. 746, approved September 30, 1972

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby endorses those portions of the Declaration of Basic Principles of Mutual Relations Between the United States of America and the Union of Soviet Socialist Republics signed by President Nixon and General Secretary Brezhnev at Moscow on May 29, 1972, which relate to the dangers of military confrontation and which read as follows:

"The United States of America and the Union of Soviet Socialist Republics attach major importance to preventing the development of situations capable of causing a dangerous exacerbation of their relations . . ." and "will do their utmost to avoid military confrontations and to prevent the outbreak of nuclear war" and "will always exercise restraint in their mutual relations," and "on outstanding issues will conduct" their discussions and negotiations "in a spirit of reciprocity, mutual accommodation and mutual benefit," and

"Both sides recognize that efforts to obtain unilateral advantage at the expense of the other, directly or indirectly, are inconsistent with these objectives," and

"The prerequisites for maintaining and strengthening peaceful relations between the United States of America and the Union of Soviet Socialist Republics are the recognition of the security interests of the parties based on the principle of equality and the renunciation of the use or threat of force."

Sec. 2. The President is hereby authorized to approve on behalf of the United States the interim agreement between the United States of America and the Union of Soviet Socialist Republics on certain measures with respect to the limitation of strategic offensive arms, and the protocol related thereto, signed at Moscow on May 26, 1972, by Richard Nixon, President of the United States of America and Leonid I. Brezhnev, General Secretary of the Central Committee of the Communist Party of the Soviet Union.

Sec. 3. The Government and the people of the United States ardently desire a stable international strategic balance that maintains peace and deters aggression. The Congress supports the stated policy of the United States that, were a more complete strategic offensive arms agreement not achieved within the five years of the interim agreement, and were the survivability of the strategic deterrent forces of the United States to be threatened as a result of such failure, this could jeopardize the supreme national interests of the United States; the Congress recognizes the difficulty of maintaining a stable strategic balance in a period of rapidly developing technology; the Congress recognizes the principle of United States-Soviet Union equality reflected in the antiballistic missile treaty, and urges and requests the President to seek a future treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union: and the Congress considers that the success of these agreements and the attainment of more permanent and comprehensive agreements are dependent upon the maintenance under present world conditions of a vigorous research and development and modernization program as required by a prudent strategic posture.

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[1] The Interim Agreement expired on October 3, 1977. However, both the United States and the Soviet Union issued parallel statements announcing that they would continue to observe the limitations on strategic buildups which were contained in the Interim Agreement.

Sec. 4. The Congress hereby commends the President for having successfully concluded agreements with the Soviet Union limiting the production and deployment of antiballistic missiles and certain strategic offensive armaments, and it supports the announced intention of the President to seek further limits on the production and deployment of strategic armaments at future Strategic Arms Limitation Talks. At the same time, the Senate takes cognizance of the fact that agreements to limit the further escalation of the arms race are only preliminary steps, however important, toward the attainment of world stability and national security. The Congress therefore urges the President to seek at the earliest practicable moment Strategic Arms Reduction Talks (SART) with the Soviet Union, the People's Republic of China, and other countries, and simultaneously to work toward reductions in conventional armaments, in order to bring about agreements for mutual decreases in the production and development of weapons of mass destruction so as to eliminate the threat of large-scale devastation and the ever-mounting costs of arms production and weapons modernization, thereby freeing world resources for constructive, peaceful use.

Sec. 5. Pursuant to paragraph six of the Declaration of Principles of Nixon and Brezhnev on May 29, 1972, which states that the United States and the Union of Soviet Socialist Republics: "will continue to make special efforts to limit strategic armaments. Whenever possible, they will conclude concrete agreements aimed at achieving these purposes"; Congress considers that the success of the interim agreement and the attainment of more permanent and comprehensive agreements are dependent upon the preservation of longstanding United States policy that neither the Soviet Union nor the United States should seek unilateral advantage by developing a first strike potential.

(2) Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, With Associated Protocol [1]

Signed May 26, 1972; ratification advised by the Senate August 3, 1972; ratified by the President and entered into force October 3, 1972

The United States of America and the Union of Soviet Socialist Republics, hereinafter referred to as the Parties,

Proceeding from the premise that nuclear war would have devastating consequences for all mankind,

Considering that effective measures to limit anti-ballistic missile systems would be a substantial factor in curbing the race in strategic offensive arms and would lead to a decrease in the risk of outbreak of war involving nuclear weapons,

Proceeding from the premise that the limitation of anti-ballistic missile systems, as well as certain agreed measures with respect to the limitation of strategic offensive arms, would contribute to the creation of more favorable conditions for further negotiations on limiting strategic arms,

Mindful of their obligations under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons,

Declaring their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to take effective measures toward reductions in strategic arms, nuclear disarmament, and general and complete disarmament,

Desiring to contribute to the relaxation of international tension and the strengthening of trust between States,

Have agreed as follows:

ARTICLE I

1. Each Party undertakes to limit anti-ballistic missile (ABM) systems and to adopt other measures in accordance with the provisions of this Treaty.

2. Each Party undertakes not to deploy ABM systems for a defense of the territory of its country and not to provide a base for such a defense, and not to deploy ABM systems for defense of an individual region except as provided for in Article III of this Treaty.

ARTICLE II

1. For the purposes of this Treaty an ABM system is a system to counter strategic ballistic missiles or their elements in flight trajectory, currently consisting of:

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[1] 23 UST 3435; TIAS 7503.

(*a*) ABM interceptor missiles, which are interceptor missiles constructed and deployed for an ABM role, or of a type tested in an ABM mode;

(*b*) ABM launchers, which are launchers constructed and deployed for launching ABM interceptor missiles; and

(*c*) ABM radars, which are radars constructed and deployed for an ABM role, or of a type tested in an ABM mode.

2. The ABM system components listed in paragraph 1 of this Article include those which are:

(*a*) operational;
(*b*) under construction;
(*c*) undergoing testing;
(*d*) undergoing overhaul, repair or conversion; or
(*e*) mothballed.

ARTICLE III

Each party undertakes not to deploy ABM systems or their components except that:

(*a*) within one ABM system deployment area having a radius of one hundred and fifty kilometers and centered on the Party's national capital, a Party may deploy; (1) no more than one hundred ABM launchers and no more than one hundred ABM interceptor missiles at launch sites, and (2) ABM radars within no more than six ABM radar complexes, the area of each complex being circular and have a diameter of no more than three kilometers; and

(*b*) within one ABM system deployment area having a radius of one hundred and fifty kilometers and containing ICBM silo launchers, a Party may deploy: (1) no more than one hundred ABM launchers and no more than one hundred ABM interceptor missiles at launch sites, (2) two large phased-array ABM radars comparable in potential to corresponding ABM radars operational or under construction on the date of signature of the Treaty in an ABM system deployment area containing ICBM silo launchers, and (3) no more than eighteen ABM radars each having a potential less than the potential of the smaller of the above-mentioned two large phased-array ABM radars.

ARTICLE IV

The limitations provided for in Article III shall not apply to ABM systems or their components used for development or testing, and located within current or additionally agreed test ranges. Each Party may have no more than a total of fifteen ABM launchers at test ranges.

ARTICLE V

1. Each Party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based.

2. Each Party undertakes not to develop, test, or deploy ABM launchers for launching more than one ABM interceptor missile at a time from each launcher, nor to modify deployed launchers to provide them with such a capability, nor to develop, test, or deploy

automatic or semi-automatic or other similar systems for rapid reload or ABM launchers.

Article VI

To enhance assurance of the effectiveness of the limitations on ABM systems and their components provided by this Treaty, each Party undertakes:

(*a*) not to give missiles, launchers, or radars, other than ABM interceptor missiles, ABM launchers, or ABM radars, capabilities to counter strategic ballistic missiles or their elements in flight trajectory, and not to test them in an ABM mode; and

(*b*) not to deploy in the future radars for early warning of strategic ballistic missile attack except at locations along the periphery of its national territory and oriented outward.

Article VII

Subject to the provisions of this Treaty, modernization and replacement of ABM systems or their components may be carried out.

Article VIII

ABM systems or their components in excess of the numbers or outside the areas specified in this Treaty, as well as ABM systems or their components prohibited by this Treaty, shall be destroyed or dismantled under agreed procedures within the shortest possible agreed period of time.

Article IX

To assure the viability and effectiveness of this Treaty, each Party undertakes not to transfer to other States, and not to deploy outside its national territory, ABM systems or their components limited by this Treaty.

Article X

Each Party undertakes not to assume any international obligations which would conflict with this Treaty.

Article XI

The Parties undertake to continue active negotiations for limitations on strategic offensive arms.

Article XII

1. For the purpose of providing assurance of compliance with the provisions of this Treaty, each Party shall use national technical means of verification at its disposal in a manner consistent with generally recognized principles of international law.

2. Each Party undertakes not to interfere with the national technical means of verification of the other Party operating in accordance with paragraph 1 of this Article.

3. Each Party undertakes not to use deliberate concealment measures which impede verification by national technical means of

compliance with the provisions of this Treaty. This obligation shall not require changes in current construction, assembly, conversion, or overhaul practices.

ARTICLE XIII

1. To promote the objectives and implementation of the provisions of this Treaty, the Parties shall establish promptly a Standing Consultative Commission, within the framework of which they will:

(*a*) consider questions concerning compliance with the obligations assumed and related situations which may be considered ambiguous;

(*b*) provide on a voluntary basis such information as either Party considers necessary to assure confidence in compliance with the obligations assumed;

(*c*) consider questions involving unintended interference with national technical means of verification;

(*d*) consider possible changes in the strategic situation which have a bearing on the provisions of this Treaty;

(*e*) agree upon procedures and dates for destruction or dismantling of ABM systems or their components in cases provided for by the provisions of this Treaty;

(*f*) consider, as appropriate, possible proposals for further increasing the viability of this Treaty, including proposals for amendments in accordance with the provisions of this Treaty;

(*g*) consider, as appropriate, proposals for further measures aimed at limiting strategic arms.

2. The Parties through consultation shall establish, and may amend as appropriate, Regulations for the Standing Consultative Commission governing procedures, composition and other relevant matters.

ARTICLE XIV

1. Each Party may propose amendments to this Treaty. Agreed amendments shall enter into force in accordance with the procedures governing the entry into force to this Treaty.

2. Five years after entry into force of this Treaty, and at five year intervals thereafter, the Parties shall together conduct a review of this Treaty.

ARTICLE XV

1. This Treaty shall be of unlimited duration.

2. Each Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized its supreme interests. It shall give notice of its decision to the other Party six months prior to withdrawal from the Treaty. Such notice shall include a statement of the extraordinary events the notifying Party regards as having jeopardized its supreme interests.

ARTICLE XVI

1. This Treaty shall be subject to ratification in accordance with the constitutional procedures of each Party. The Treaty shall enter into force on the day of the exchange of instruments of ratification.

2. This Treaty shall be registered pursuant to Article 102 of the Charter of the United Nations.[2]

DONE at Moscow on May 26, 1972, in two copies, each in the English and Russian languages, both texts being equally authentic.

For the United States of America:

RICHARD NIXON,
President of the United States of America.

For the Union of Soviet Socialist Republics:

L. I. BREZHNEV,
General Secretary of the Central Committee of the CPSU.

Protocol to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems[3]

Signed at Moscow July 3, 1974; ratification advised by the Senate November 10, 1975; entered into force May 24, 1976

The United States of America and the Union of Soviet Socialist Republics, hereinafter referred to as the Parties.

Proceeding from the Basic Principles of Relations between the United States of America and the Union of Soviet Socialist Republics signed on May 29, 1972,

Desiring to further the objectives of the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems signed on May 26, 1972, hereinafter referred to as the Treaty.

Reaffirming their conviction that the adoption of further measures for the limitation of strategic arms would contribute to strengthening international peace and security,

Proceeding from the premise that further limitation of anti-ballistic missile systems will create more favorable conditions for the completion of work on a permanent agreement on more complete measures for the limitation of strategic offensive arms,

Have agreed as follows:

ARTICLE I

1. Each Party shall be limited at any one time to a single area out of the two provided in Article III of the Treaty for deployment of anti-ballistic missile (ABM) systems or their components and accordingly shall not exercise its rights to deploy an ABM system or its components in the second of the two ABM system deployment areas permitted by Article III of the Treaty, except as an exchange of one permitted area for the other in accordance with Article II of this Protocol.

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[2] See page 707 of text.

[3] 27 UST 1645; TIAS 8276.

2. Accordingly, except as permitted by Article II of this Protocol: the United States of America shall not deploy an ABM system or its components in the area centered on its capital, as permitted by Article III(a) of the Treaty, and the Soviet Union shall not deploy an ABM system or its components in the deployment area of intercontinental ballistic missile (ICBM) silo launchers permitted by Article III(b) of the Treaty.

ARTICLE II

1. Each Party shall have the right to dismantle or destroy its ABM system and the components thereof in the area where they are presently deployed and to deploy an AMB system or its components in the alternative area permitted by Article III of the Treaty, provided that prior to initiation of construction, notification is given in accord with the procedure agreed to by the Standing Consultative Commission, during the year beginning October 3, 1977, and ending October 2, 1978, or during any year which commences at five year intervals thereafter, those being the years for periodic review of the Treaty, as provided in Article XIV of the Treaty. This right may be exercised only once.

2. Accordingly, in the event of such notice, the United States would have the right to dismantle or destroy the ABM system and its components in the deployment area of ICBM silo launchers and to deploy an ABM system or its components in an area centered on its capital, as permitted by Article III(a) of the Treaty, and the Soviet Union would have the right to dismantle or destroy the ABM system and its components in the area centered on its capital and to deploy an ABM system or its components in an area containing ICBM silo launchers, as permitted by Article III(b) of the Treaty.

3. Dismantling or destruction and deployment of ABM systems or their components and the notification thereof shall be carried out in accordance with Article VIII of the ABM Treaty and procedures agreed to in the Standing Consultative Commission.

ARTICLE III

The rights and obligations established by the Treaty remain in force and shall be complied with by the Parties except to the extent modified by this Protocol. In particular, the deployment of an ABM system or its components within the area selected shall remain limited by the levels and other requirements established by the Treaty.

ARTICLE IV

This Protocol shall be subject to ratification in accordance with the constitutional procedures of each Party. It shall enter into force on the day of the exchange of instruments of ratification and shall thereafter be considered an integral part of the Treaty.

Done at Moscow on July 3, 1974, in duplicate, in the English and Russian languages, both texts being equally authentic.

For the United States of America:

RICHARD NIXON,
President of the United States of America.

For the Union of Soviet Socialist Republics:

L. I. BREZHNEV,
General Secretary of the Central Committee of the CPSU.

(3) Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures With Respect to the Limitation of Strategic Offensive Arms, With Associated Protocol [1]

Signed at Moscow on May 26, 1972; Related joint resolution approved September 30, 1972 [Public Law 92–448 [2]]; Approved by the President of the United States of America October 3, 1972; Entered into force October 3, 1972

The United States of America and the Union of Soviet Socialist Republics, hereinafter referred to as the Parties,

Convinced that the Treaty on the Limitation of Anti-Ballistic Missile Systems and this Interim Agreement on Certain Measures with Respect to the Limitation of Strategic Offensive Arms will contribute to the creation of more favorable conditions for active negotiations on limiting strategic arms as well as to the relaxation of international tension and the strengthening of trust between States,

Taking into account the relationship between strategic offensive and defensive arms,

Mindful of their obligations under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons,

Have agreed as follows:

Article I

The Parties undertake not to start construction of additional fixed land-based intercontinental ballistic missile (ICBM) launchers after July 1, 1972.

Article II

The Parties undertake not to convert land-based launchers for light ICBMs, or ICBMs of older types deployed prior to 1964, into land-based launchers for heavy ICBMs of types deployed after that time.

Article III

The Parties undertake to limit submarine-launched ballistic missile (SLBM) launchers and modern ballistic missile submarines to the numbers operational and under construction on the date of signature of this Interim Agreement, and in addition to launchers and submarines constructed under procedures established by the Parties as replacements for an equal number of ICBM launchers of older types deployed prior to 1964 or for launchers on older submarines.

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[1] 23 UST 3462; TIAS 7504. The Interim Agreement expired on October 3, 1977. However, both the United States and the Soviet Union issued parallel statements announcing that they would continue to observe the limitations on strategic buildups which were contained in the agreement.

[2] See page 67 for text.

ARTICLE IV

Subject to the provisions of this Interim Agreement, modernization and replacement of strategic offensive ballistic missiles and launchers covered by this Interim Agreement may be undertaken.

ARTICLE V

1. For the purpose of providing assurance of compliance with the provisions of this Interim Agreement, each Party shall use national technical means of verification at its disposal in a manner consistent with generally recognized principles of international law.

2. Each Party undertakes not to interfere with the national technical means of verification of the other Party operating in accordance with paragraph 1 of this Article.

3. Each Party undertakes not to use deliberate concealment measures which impede verification by national technical means of compliance with the provisions of this Interim Agreement. This obligation shall not require changes in current construction, assembly, conversion, or overhaul practices.

ARTICLE VI

To promote the objectives and implementation of the provisions of this Interim Agreement, the Parties shall use the Standing Consultative Commission established under Article XIII of the Treaty on the Limitation of Anti-Ballistic Missile Systems in accordance with the provisions of that Article.

ARTICLE VII

The Parties undertake to continue active negotiations for limitations on strategic offensive arms. The obligations provided for in this Interim Agreement shall not prejudice the scope or terms of the limitations on strategic offensive arms which may be worked out in the course of further negotiations.

ARTICLE VIII

1. This Interim Agreement shall enter into force upon exchange of written notices of acceptance by each Party, which exchange shall take place simultaneously with the exchange of instruments of ratification of the Treaty on the Limitation of Anti-Ballistic Missile Systems.

2. This Interim Agreement shall remain in force for a period of five years unless replaced earlier by an agreement on more complete measures limiting strategic offensive arms. It is the objective of the Parties to conduct active follow-on negotiations with the aim of concluding such an agreement as soon as possible.

3. Each Party shall, in exercising its national sovereignty, have the right to withdraw from this Interim Agreement if it decides that extraordinary events related to the subject matter of this Interim Agreement have jeopardized its supreme interests. It shall give notice of its decision to the other Party six months prior to

withdrawal from this Interim Agreement. Such notice shall include a statement of the extraordinary events the notifying Party regards as having jeopardized its supreme interests.

DONE at Moscow on May 26, 1972, in two copies, each in the English and Russian languages, both texts being equally authentic.

For the United States of America:

RICHARD NIXON,
President of the United States of America.

For the Union of Soviet Socialist Republics:

L. I. BREZHNEV,
General Secretary of the Central Committee of the CPSU.

Protocol to the Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures with respect to the Limitation of Strategic Offensive Arms

Signed at Moscow May 26, 1972

The United States of America and the Union of Soviet Socialist Republics, hereinafter referred to as the Parties.

Having agreed on certain limitations relating to submarine-launched ballistic missile launchers and modern ballistic missile submarines, and to replacement procedures, in the Interim Agreement,

Have agreed as follows:

The Parties understand that, under Article III of the Interim Agreement, for the period during which that Agreement remains in force:

The U.S. may have no more than 710 ballistic missile launchers on submarines (SLBMs) and no more than 44 modern ballistic missile submarines. The Soviet Union may have no more than 950 ballistic missile launchers on submarines and no more than 62 modern ballistic missile submarines.

Additional ballistic missile launchers on submarines up to the above-mentioned levels, in the U.S.—over 656 ballistic missile launchers on nuclear-powered submarines, and in the U.S.S.R.—over 740 ballistic missile launchers on nuclear-powered submarines, operational and under construction, may become operational as replacements for equal numbers of ballistic missile launchers of older types deployed prior to 1964 or of ballistic missile launchers on older submarines.

The deployment of modern SLBMs on any submarine, regardless of type, will be counted against the total level of SLBMs permitted for the U.S. and the U.S.S.R.

This protocol shall be considered an integral part of the Interim Agreement.

DONE at Moscow this 26th day of May, 1972.
For the United States of America:

RICHARD NIXON,
President of the United States of America.

For the Union of Soviet Socialist Republics:

L. I. BREZHNEV,
General Secretary of the Central Committee of the CPSU.

(4) Agreed Interpretations and Unilateral Statements

1. AGREED INTERPRETATIONS

(a) Initialed Statements.—The texts of the statements set out below were agreed upon and initialed by the Heads of the Delegations on May 26, 1972.

ABM TREATY

[A]

The Parties understand that, in addition to the ABM radars which may be deployed in accordance with subparagraph (a) of Article III of the Treaty, those non-phased-array ABM radars operational on the date of signature of the Treaty within the ABM system deployment area for defense of the national capital may be retained.

[B]

The Parties understand that the potential (the product of mean emitted power in watts and antenna area in square meters) of the smaller of the two large phased-array ABM radars referred to in subparagraph (b) of Article III of the Treaty is considered for purposes of the Treaty to be three million.

[C]

The Parties understand that the center of the ABM system deployment area centered on the national capital and the center of the ABM system deployment area containing ICBM silo launchers for each Party shall be separated by no less than thirteen hundred kilometers.

[D]

The Parties agree not to deploy phased-array radars having a potential (the product of mean emitted power in watts and antenna area in square meters) exceeding three million, except as provided for in Articles III, IV and VI of the Treaty, or except for the purposes of tracking objects in outer space or for use as national technical means of verification.

[E]

In order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty, the Parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers,

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or ABM radars are created in the future, specific limitations on such systems and their components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty.

[F]

The Parties understand that Article V of the Treaty includes obligations not to develop, test or deploy ABM interceptor missiles for the delivery by each ABM interceptor missile of more than one independently guided warhead.

[G]

The Parties understand that Article IX of the Treaty includes the obligation of the U.S. and the U.S.S.R. not to provide to other States technical descriptions or blueprints specially worked out for the construction of ABM systems and their components limited by the Treaty.

INTERIM AGREEMENT

[H]

The Parties understand that land-based ICBM launchers referred to in the Interim Agreement are understood to be launchers for strategic ballistic missiles capable of ranges in excess of the shortest distance between the northeastern border of the continental U.S. and the northwestern border of the continental U.S.S.R.

[I]

The Parties understand that fixed land based ICBM launchers under active construction as of the date of signature of the Interim Agreement may be completed.

[J]

The Parties understand that in the process of modernization and replacement the dimensions of land-based ICBM silo launchers will not be significantly increased.

[K]

The Parties understand that dismantling or destruction of ICBM launchers of older types deployed prior to 1964 and ballistic missile launchers on older submarines being replaced by new SLBM launchers on modern submarines will be initiated at the time of the beginning of sea trials of a replacement submarine, and will be completed in the shortest possible agreed period of time. Such dismantling or destruction, and timely notification thereof, will be accomplished under procedures to be agreed in the Standing Consultative Commission.

[L]

The Parties understand that during the period of the Interim Agreement there shall be no significant increase in the number of

ICBM or SLBM test and training launchers, or in the number of such launchers for modern land-based heavy ICBMs. The Parties further understand that construction or conversion of ICBM launchers at test ranges shall be undertaken only for purposes of testing and training.

(b) Common Understandings.—Common understanding of the Parties on the following matters was reached during the negotiations:

A. INCREASE IN ICBM SILO DIMENSIONS

Ambassador Smith made the following statement on May 26, 1972:

"The Parties agree that the term 'significantly increased' means that an increase will not be greater than 10–15 percent of the present dimensions of land-based ICBM silo launchers."

Minister Semenov replied that this statement corresponded to the Soviet understanding.

B. LOCATION OF ICBM DEFENSES

The U.S. Delegation made the following statement on May 26, 1972:

"Article III of the ABM Treaty provides for each side one ABM system deployment area centered on its national capital and one ABM system deployment area containing ICBM silo launchers. The two sides have registered agreement on the following statement: 'The Parties understand that the center of the ABM system deployment area centered on the national capital and the center of the ABM system deployment area contained ICBM silo launchers for each Party shall be separated by no less than thirteen hundred kilometers.' In this connection, the U.S. side notes that its ABM system deployment area for defense of ICBM silo launchers, located west of the Mississippi River, will be centered in the Grand Forks ICBM silo launcher deployment area." (See Initialed Statement [C].)

C. ABM TEST RANGES

The U.S. Delegation made the following statement on April 26, 1972:

"Article IV of the ABM Treaty provides that 'the limitations provided for in Article III shall not apply to ABM systems or their components used for development or testing, and located within current or additionally agreed test ranges.' We believe it would be useful to assure that there is no misunderstanding as to current ABM test ranges. It is our understanding that ABM test ranges encompass the area within which ABM components are located for test purposes. The current U.S. ABM test ranges are at White Sands, New Mexico, and at Kwajalein Atoll, and the current Soviet ABM test range is near Sary Shagan in Kazakhstan. We consider that non-phased array radars of types used for range safety or instrumentation purposes may be located outside of ABM test ranges. We interpret the reference in Article IV to 'additionally agreed test ranges' to mean that ABM components will not be located at any other test ranges without prior agreement between our Governments that there will be such additional ABM test ranges."

On May 5, 1972, the Soviet Delegation stated that there was a common understanding on what ABM test ranges were, that the use of the types of non-ABM radars for range safety or instrumentation was not limited under the Treaty, that the reference in Article IV to "additionally agreed" test ranges was sufficiently clear, and that national means permitted identifying current test ranges.

D. MOBILE ABM SYSTEMS

On January 28, 1972, the U.S. Delegation made the following statement:

"Article V(I) of the Joint Draft Text of the ABM Treaty includes an undertaking not to develop, test, or deploy mobile land-based ABM systems and their components. On May 5, 1972, the U.S. side indicated that, in its view, a prohibition on deployment of mobile ABM systems and components would rule out the deployment of ABM launchers and radars which were not permanent fixed types. At that time, we asked for the Soviet view of this interpretation. Does the Soviet side agree with the U.S. side's interpretation put forward on May 5, 1971?"

On April 13, 1972, the Soviet Delegation said there is a general common understanding on this matter.

E. STANDING CONSULTATIVE COMMISSION

Ambassador Smith made the following statement on May 22, 1972:

"The United States proposes that the sides agree that, with regard to initial implementation of the ABM Treaty's Article XIII on the Standing Consultative Commission (SCC) and of the consultation Articles to the Interim Agreement on offensive arms and the Accidents Agreement,[1] agreement establishing the SCC will be worked out early in the follow-on SALT negotiations; until that is completed, the following arrangements will prevail: when SALT is in session, any consultation desired by either side under these Articles can be carried out by the two SALT Delegations: when SALT is not in session, *ad hoc* arrangements for any desired consultations under these Articles may be made through diplomatic channels."

Minister Semenov replied that, on an *ad referendum basis,* he could agree that the U.S. statement corresponded to the Soviet understanding.

F. STANDSTILL

On May 6, 1972, Minister Semenov made the following statement:

"In an effort to accommodate the wishes of the U.S. side, the Soviet Delegation is prepared to proceed on the basis that the two sides will in fact observe the obligations of both the Interim Agreement and the ABM Treaty beginning from the date of signature of these two documents."

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[1] See Article 7 of Agreement to Reduce the Risk of Outbreak of Nuclear War Between the United States of America and the Union of Soviet Socialist Republics, signed Sept. 30, 1971, p. 61.

In reply, the U.S. Delegation made the following statement on May 20, 1972:

"The U.S. agrees in principle with the Soviet statement made on May 6 concerning observance of obligations beginning from date of signature but we would like to make clear our understanding that this means that, pending ratification and acceptance, neither side would take any action prohibited by the agreements after they had entered into force. This understanding would continue to apply in the absence of notification by either signatory of its intention not to proceed with ratification or approval."

The Soviet Delegation indicated agreement with the U.S. statement.

2. UNILATERAL STATEMENTS

(a) The following noteworthy unilateral statements were made during the negotiations by the United States Delegation:

A. WITHDRAWAL FROM THE ABM TREATY

On May 9, 1972, Ambassador Smith made the following statement:

"The U.S. Delegation has stressed the importance the U.S. Government attaches to achieving agreement on more complete limitations on strategic offensive arms, following agreement on an ABM Treaty and on an Interim Agreement on certain measures with respect to the limitation of strategic offensive arms. The U.S. Delegation believes that an objective of the follow-on negotiations should be to constrain and reduce on a long-term basis threats to the survivability of our respective strategic retaliatory forces. The U.S.S.R. Delegation has also indicated that the objectives of SALT would remain unfulfilled without the achievement of an agreement providing for more complete limitations on strategic offensive arms. Both sides recognize that the initial agreements would be steps toward the achievement of more complete limitations on strategic arms. If an agreement providing for more complete strategic offensive arms limitations were not achieved within five years, U.S. supreme interests could be jeopardized. Should that occur, it would constitute a basis for withdrawal from the ABM Treaty. The U.S. does not wish to see such a situation occur, nor do we believe that the U.S.S.R. does. It is because we wish to prevent such a situation that we emphasize the importance the U.S. Government attaches to achievement of more complete limitations on strategic offensive arms. The U.S. Executive will inform the Congress, in connection with Congressional consideration of the ABM Treaty and the Interim Agreement, of this statement of the U.S. position."

B. LAND-MOBILE ICBM LAUNCHERS

The U.S. Delegation made the following statement on May 20, 1972:

"In connection with the important subject of land-mobile ICBM launchers, in the interest of concluding the Interim Agreement the U.S. Delegation now withdraws its proposal that Article I or an agreed statement explicitly prohibits the deployment of mobile land-based ICBM launchers. I have been instructed to inform you that, while agreeing to defer the question of limitation of operational land-mobile ICBM launchers to the subsequent negotiations on more complete limitations on strategic offensive arms, the U.S. would consider the deployment of operational land-mobile ICBM launchers during the period of the Interim Agreement as inconsistent with the objectives of that Agreement.

C. COVERED FACILITIES

The U.S. Delegation made the following statement on May 20, 1972:

"I wish to emphasize the importance that the United States attaches to the provisions of Article V, including in particular their application to fitting out or berthing submarines."

D. "HEAVY" ICBM'S

The U.S. Delegation made the following statement on May 26, 1972:

"The U.S. Delegation regrets that the Soviet Delegation has not been willing to agree on a common definition of a heavy missile. Under these circumstances, the U.S. Delegation believes it necessary to state the following: The United States would consider any ICBM having a volume significantly greater than that of the largest light ICBM now operational on either side to be a heavy ICBM. The U.S. proceeds on the premise that the Soviet side will give due account to this consideration."

E. TESTED IN ABM MODE

On April 7, 1972, the U.S. Delegation made the following statement:

"Article II of the Joint Text Draft uses the term 'tested in an ABM mode,' in defining ABM components, and Article VI includes certain obligations concerning such testing. We believe that the sides should have a common understanding of this phrase. First, we would note that the testing provisions of the ABM Treaty are intended to apply to testing which occurs after the date of signature of the Treaty, and not to any testing which may have occurred in the past. Next, we would amplify the remarks we have made on this subject during the previous Helsinki phase by setting forth the objectives which govern the U.S. view on the subject, namely, while prohibiting testing of non-ABM components for ABM purposes: Not to present testing of ABM components, and not to prevent testing non-ABM components for non-ABM purposes. To clarify our interpretation of 'tested in an ABM mode,' we note that we would consider a launcher, missile or radar to be 'tested in an ABM model' if, for example, any of the following events occur: (1) a launcher is used to launch an ABM interceptor missile, (2) an interceptor missile is flight tested against a target vehicle which has a flight trajectory with characteristics of a strategic ballistic missile flight trajectory, or is flight tested in conjunction with the test of an ABM interceptor missile or an ABM radar at the same test range, or is flight tested to an altitude inconsistent with interception of targets against which air defenses are deployed, (3) a radar makes measurements on a cooperative target vehicle of the kind referred to in item (2) above during the reentry portion of its trajectory or makes measurements in conjunction with the test of an ABM interceptor missile or an ABM radar at the same test range. Radars used for purposes such as range safety or instrumentation would be exempt from application of these criteria."

F. NO-TRANSFER ARTICLE OF ABM TREATY

On April 18, 1972, the U.S. Delegation made the following statement:

"In regard to this Article [IX], I have a brief and I believe self-explanatory statement to make. The U.S. side wishes to make clear that the provisions of this Article do not set a precedent for whatever provision may be considered for a Treaty on Limiting Strategic Offensive Arms. The question of transfer of strategic offensive arms is a far more complex issue, which may require a different solution."

G. NO INCREASE IN DEFENSE OF EARLY WARNING RADARS

On July 28, 1970, the U.S. Delegation made the following statement:

"Since Hen House radars [Soviet ballistic missile early warning radars] can detect and track ballistic missile warheads at great distances, they have a significant ABM potential. Accordingly, the U.S. would regard any increase in the defenses of such radars by surface-to-air missiles as inconsistent with an agreement."

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(b) The following noteworthy unilateral statement was made by the Delegation of the U.S.S.R. and is shown here with the U.S. reply:

On May 17, 1972, Minister Semenov made the following unilateral "Statement of the Soviet Side":

"Taking into account that modern ballistic missile submarines are presently in the possession of not only the U.S., but also of its NATO allies, the Soviet Union agrees that for the period of effectiveness of the Interim 'Freeze' Agreement the U.S. and its NATO allies have up to 50 such submarines with a total of up to 800 ballistic missile launchers thereon (including 41 U.S. submarines with 656 ballistic missile launchers). However, if during the period of effectiveness of the Agreement U.S. allies in NATO should increase the number of their modern submarines to exceed the numbers of submarines they would have operational or under construction on the date of signature of the Agreement, the Soviet Union will have the right to a corresponding increase in the number of its submarines. In the opinion of the Soviet side, the solution of the question of modern ballistic missile submarines provided for in the Interim Agreement only partially compensates for the strategic imbalance in the deployment of the nuclear-powered missile submarines of the U.S.S.R. and the U.S. Therefore, the Soviet side believes that this whole question, and above all the question of liquidating the American missile submarine bases outside the U.S., will be appropriately resolved in the course of follow-on negotiations."

On May 24, Ambassador Smith made the following reply to Minister Semenov:

"The United States side has studied the 'statement made by the Soviet side' of May 17 concerning compensation for submarine basing and SLBM submarines belonging to third countries. The United States does not accept the validity of the considerations in that statement."

On May 26 Minister Semenov repeated the unilateral statement made on May 24. Ambassador Smith also repeated the U.S. rejection on May 26.

(5) Standing Consultative Commission on Arms Limitation [1]

Memorandum of Understanding signed at Geneva December 21, 1972; Entered into force December 21, 1972

MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS REGARDING THE ESTABLISHMENT OF A STANDING CONSULTATIVE COMMISSION

I

The Government of the United States of America and the Government of the Union of Soviet Socialist Republics hereby establish a Standing Consultative Commission.

II

The Standing Consultative Commission shall promote the objectives and implementation of the provisions of the Treaty between the USA and the USSR on the Limitation of Anti-Ballistic Missile Systems of May 26, 1972,[2] the Interim Agreement between the USA and the USSR on Certain Measures with Respect to the Limitation of Strategic Offensive Arms of May 26, 1972,[3] and the Agreement on Measures to Reduce the Risk of Outbreak of Nuclear War between the USA and the USSR of September 30, 1971,[4] and shall exercise its competence in accordance with the provisions of Article XIII of said Treaty, Article VI of said Interim Agreement, and Article 7 of said Agreement on Measures.

III

Each Government shall be represented on the Standing Consultative Commission by a Commissioner and a Deputy Commissioner, assisted by such staff as it deems necessary.

IV

The Standing Consultative Commission shall hold periodic sessions on dates mutually agreed by the Commissioners but no less than two times per year. Sessions shall also be convened as soon as possible, following reasonable notice, at the request of either Commissioner.

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[1] 24 UST 238; TIAS 7545.

[2] See page 67 of text.

[3] See page 76 of text.

[4] See page 61 of text.

V

The Standing Consultative Commission shall establish and approve Regulations governing procedures and other relevant matters and may amend them as it deems appropriate.

VI

The Standing Consultative Commission will meet in Geneva. It may also meet at such other places as may be agreed.

Done in Geneva, on December 21, 1972, in two copies, each in the English and Russian language, both texts being equally authentic.

(6) Standing Consultative Commission on Arms Limitation: Regulations [1]

Protocol, with regulations, signed at Geneva May 30, 1973; Entered into force May 30, 1973

STANDING CONSULTATIVE COMMISSION

PROTOCOL

Pursuant to the provisions of the Memorandum of Understanding between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding the Establishment of a Standing Consultative Commission, dated December 21, 1972,[2] the undersigned, having been duly appointed by their respective Governments as Commissioners of said Standing Consultative Commission, hereby establish and approve, in the form attached, Regulations governing procedures and other relevant matters of the Commission, which Regulations shall enter into force upon signature of this Protocol and remain in force until and unless amended by the undersigned or their successors.

DONE in Geneva, on May 30, 1973, in two copies each in the English and Russian language, both texts being equally authentic.

[Attachment]

STANDING CONSULTATIVE COMMISSION

REGULATIONS

1. The Standing Consultative Commission, established by the Memorandum of Understanding between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding the Establishment of a Standing Consultative Commission of December 21, 1972, shall consist of a U.S. component and Soviet component, each of which shall be headed by a Commissioner.

2. The Commissioners shall alternately preside over the meetings.

3. The Commissioners shall, when possible, inform each other in advance of the matters to be submitted for discussion, but may at a meeting submit for discussion any matter within the competence of the Commission.

4. During intervals between sessions of the Commission, each Commissioner may transmit written or oral communications to the

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[1] 24 UST 1124; TIAS 7637.
[2] See page 68 of text.

other Commissioner concerning matters within the competence of the Commission.

5. Each component of the Commission may invite such advisers and experts as it deems necessary to participate in a meeting.

6. The Commission may establish working groups to consider and prepare specific matters.

7. The results on the discussion of questions at the meetings of the Commission may, if necessary, be entered into records which shall be in two copies, each in the English and the Russian languages, both texts being equally authentic.

8. The proceedings of the Standing Consultative Commission shall be conducted in private. The Standing Consultative Commission may not make its proceedings public except with the express consent of both Commissioners.

9. Each component of the Commission shall bear the expenses connected with its participation in the Commission.

g. Agreement Between the United States of America and the Union of Soviet Socialist Republics on the Prevention of Nuclear War[1]

Agreement signed at Washington June 23, 1973; Entered into force June 22, 1973

The United States of America and the Union of Soviet Socialist Republics, hereinafter referred to as the Parties,

Guided by the objectives of strengthening world peace and international security,

Conscious that nuclear war would have devastating consequences for mankind,

Proceeding from the desire to bring about conditions in which the danger of an outbreak of nuclear war anywhere in the world would be reduced and ultimately eliminated,

Proceeding from their obligations under the charter of the United Nations regarding the maintenance of peace, refraining from the threat or use of force, and the avoidance of war, and in conformity with the agreements to which either Party has subscribed,

Proceeding from the Basic Principles of Relations between the United States of America and the Union of Soviet Socialist Republics signed in Moscow on May 29, 1972,[2]

Reaffirming that the development of relations between the United States of America and the Union of Soviet Socialist Republics is not directed against other countries and their interests,

Have agreed as follows:

Article I

The United States and the Soviet Union agree that an objective of their policies is to remove the danger of nuclear war and of the use of nuclear weapons.

Accordingly, the Parties agree that they will act in such a manner as to prevent the development of situations capable of causing a dangerous exacerbation of their relations, as to avoid military confrontations, and as to exclude the outbreak of nuclear war between them and between either of the Parties and other countries.

Article II

The Parties agree, in accordance with Article I and to realize the objective stated in that Article, to proceed from the premise that each Party will refrain from the threat or use of force against the other Party, against the allies of the other Party and against other countries, in circumstances which may endanger international peace and security. The Parties agree that they will be guided by these considerations in the formulation of their foreign policies and in their actions in the field of international relations.

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[1] 24 UST 1478; TIAS 7654.

[2] *Department of State Bulletin*, June 26, 1972, p. 898.

ARTICLE III

The Parties undertake to develop their relations with each other and with other countries in a way consistent with the purposes of this Agreement.

ARTICLE IV

If at any time relations between the Parties or between either Party and other countries appear to involve the risk of a nuclear conflict, or if relations between countries not parties to this Agreement appear to involve the risk of nuclear war between the United States of America and the Union of Soviet Socialist Republics or between either Party and other countries, the United States and the Soviet Union, acting in accordance with the provisions of this Agreement, shall immediately enter into urgent consultations with each other and make every effort to avert this risk.

ARTICLE V

Each Party shall be free to inform the Security Council of the United Nations, the Secretary General of the United Nations and the Governments of allied or other countries of the progress and outcome of consultations initiated in accordance with Article IV of this Agreement.

ARTICLE VI

Nothing in this Agreement shall affect or impair:

(a) the inherent right of individual or collective self-defense as envisaged by Article 51 of the Charter of the United Nations.[3]

(b) the provisions of the Charter of the United Nations, including those relating to the maintenance or restoration of international peace and security, and

(c) the obligations undertaken by either Party towards its allies or other countries in treaties, agreements, and other appropriate documents.

ARTICLE VII

This Agreement shall be of unlimited duration.

ARTICLE VIII

This Agreement shall enter into force upon signature.

DONE at Washington on June 22, 1973, in two copies, each in the English and Russian languages, both texts being equally authentic.

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[3] TS 993; 59 Stat. See page 707 of text.

BEST COPY AVAILABLE

h. Chemical and Biological Warfare

(1) Geneva Protocol of 1925 (with reservation)

Protocol Prohibiting the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare; Done at Geneva June 17, 1925; Ratification advised by the Senate December 16, 1974; Ratification deposited April 10, 1975[1]

The undersigned plenipotentiaries, in the name of their respective Governments:

Whereas the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices, has been justly condemned by the general opinion of the civilised world; and

Whereas the prohibition of such use has been declared in Treaties to which the majority of Powers of the world are Parties; and

To the end that this prohibition shall be universally accepted as a part of International Law, binding alike the conscience and the practice of nations;

Declare:

> That the High Contracting Parties, so far as they are not already Parties to Treaties prohibiting such use, accept this prohibition, agree to extend this prohibition to the use of bacteriological methods of warfare and agree to be bound as between themselves according to the terms of this declaration.

The High Contracting Parties will exert every effort to induce other States to accede to the present Protocol. Such accession will be notified to the Government of the French Republic, and by the latter to all signatory and acceding Powers, and will take effect on the date of the notification by the Government of the French Republic.

The present Protocol, of which the French and English texts are both authentic, shall be ratified as soon as possible. It shall bear today's date.

The ratifications of the present Protocol shall be addressed to the Government of the French Republic, which will at once notify the deposit of such ratification to each of the signatory and acceding Powers.

The instruments of ratification of and accession to the present Protocol will remain deposited in the archives of the Government of the French Republic.

The present Protocol will come into force for each signatory Power as from the date of deposit of its ratification, and, from that moment, each Power will be bound as regards other Powers which have already deposited their ratifications.

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[1] 26 UST 571; TIAS 8061. For a list of states which are parties to the Protocol, see Department of State publication, *Treaties in Force*. See also Executive Order 11850 (section D, volume I) which discusses U.S. policy on the uses of chemical herbicides and riot control agents.

In witness whereof the Plenipotentiaries have signed the present Protocol.

Done at Geneva in a single copy, this seventeenth day of June, One Thousand Nine Hundred and Twenty-Five.

Ratification of Geneva Protocol of 1925, with Reservation

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous, or other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on June 17, 1925 (Ex. J, 91-2) subject to the following reservation:

That the said Protocol shall cease to be binding on the Government of the United States with respect to the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials, or devices, in regard to an enemy State if such State or any of its allies fails to respect the prohibitions laid down in the Protocol.

(2) Biological Weapons Convention

Convention on the Prohbition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction; Done at Washington, London, and Moscow April 10, 1972; Ratification advised by the Senate December 16, 1974; Ratification deposited March 26, 1975; Proclaimed by the President March 26, 1975; entered into force March 26, 1975 [1]

The States Parties to this Convention,

Determined to act with a view to achieving effective progress towards general and complete disarmament, including the prohibition and elimination of all types of weapons of mass destruction, and convinced that the prohibition of the development, production and stockpiling of chemical and bacteriological (biological) weapons and their elimination, through effective measures, will facilitate the achievement of general and complete disarmament under strict and effective international control,

Recognizing the important significance of the Protocol for the Prohibition of the Use of War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on June 17, 1925,[2] and conscious also of the contribution which the said Protocol has already made, and continues to make, to mitigating the horrors of war,

Reaffirming their adherence to the principles and objectives of that Protocol and calling upon all States to comply strictly with them,

Recalling that the General Assembly of the United Nations has repeatedly condemned all actions contrary to the principles and objectives of the Geneva Protocol of June 17, 1925,

Desiring to contribute to the strengthening of confidence between peoples and the general improvement of the international atmosphere,

Desiring also to contribute to the realization of the purposes and principles of the Charter of the United Nations,

Convinced of the importance and urgency of eliminating from the arsenals of States, through effective measures, such dangerous weapons of mass destruction as those using chemical or bacteriological (biological) agents,

Recognizing that an agreement on the prohibition of bacteriological (biological) and toxin weapons represents a first possible step towards the achievement of agreement on effective measures also for the prohibition of the development, production and stockpiling of chemical weapons, and determined to continue negotiations to that end,

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[1] 26 UST 583; TIAS 8062. For a list of states which are parties to the Convention, see Department of State publication, *Treaties in Force*. See also Executive Order 11850 (section D, volume I) which discusses U.S. policy on the uses of chemical herbicides and riot control agents.

[2] For text, see page 94.

Determined, for the sake of all mankind, to exclude completely the possibility of bacteriological (biological) agents and toxins being used as weapons,

Convinced that such use would be repugnant to the conscience of mankind and that no effort should be spared to minimize this risk,

Have agreed as follows:

ARTICLE I

Each State Party to this Convention undertakes never in any circumstances to develop, produce, stockpile or otherwise acquire or retain:

(1) Microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes;

(2) Weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.

ARTICLE II

Each State Party to this Convention undertakes to destroy, or to divert to peaceful purposes, as soon as possible but not later than nine months after the entry into force of the Convention, all agents, toxins, weapons, equipment and means of delivery specified in article I of the Convention, which are in its possession or under its jurisdiction or control. In implementing the provisions of this article all necessary safety precautions shall be observed to protect populations and the environment.

ARTICLE III

Each State Party to this Convention undertakes not to transfer to any recipient whatsoever, directly or indirectly, and not in any way to assist, encourage, or induce any State, group of States or international organizations to manufacture or otherwise acquire any of the agents, toxins, weapons, equipment or means of delivery specified in article I of the Convention.

ARTICLE IV

Each State Party to this Convention shall, in accordance with its constitutional processes, take any necessary measures to prohibit and prevent the development, production, stockpiling, acquisition or retention of the agents, toxins, weapons, equipment and means of delivery specified in article I of the Convention, within the territory of such State, under its jurisdiction or under its control anywhere.

ARTICLE V

The States Parties to this Convention undertake to consult one another and to cooperate in solving any problems which may arise in relation to the objective of, or in the application of the provisions of, the Convention. Consultation and cooperation pursuant to this article may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter.

ARTICLE VI

(1) Any State Party to this Convention which finds that any other State Party is acting in breach of obligations deriving from the provisions of the Convention may lodge a complaint with the Security Council of the United Nations. Such a complaint should include all possible evidence confirming its validity, as well as a request for its consideration by the Security Council.

(2) Each State Party to this Convention undertakes to cooperate in carrying out any investigation which the Security Council may initiate, in accordance with the provisions of the Charter of the United Nations, on the basis of the complaint received by the Council. The Security Council shall inform the States Parties to the Convention of the results of the investigation.

ARTICLE VII

Each State Party to this Convention undertakes to provide or support assistance, in accordance with the United Nations Charter, to any Party to the Convention which so requests, if the Security Council decides that such Party has been exposed to danger as a result of violation of the Convention.

ARTICLE VIII

Nothing in this Convention shall be interpreted as in any way limiting or detracting from the obligations assumed by any State under the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on June 17, 1925.

ARTICLE IX

Each State Party to this Convention affirms the recognized objective of effective prohibition of chemical weapons and, to this end, undertakes to continue negotiations in good faith with a view to reaching early agreement on effective measures for the prohibition of their development, production and stockpiling and for their destruction, and on appropriate measures concerning equipment and means of delivery specifically designed for the production or use of chemical agents for weapons purposes.

ARTICLE X

(1) The States Parties to this Convention undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the use of bacteriological (biological) agents and toxins for peaceful purposes. Parties to the Convention in a position to do so shall also cooperate in contributing individually or together with other States or international organizations to the further development and application of scientific discoveries in the field of bacteriology (biology) for prevention of disease, or for other peaceful purposes.

(2) This Convention shall be implemented in a manner designed to avoid hampering the economic or technological development of States Parties to the Convention or international cooperation in the field of peaceful bacteriological (biological) activities, including the international exchange of bacteriological (biological) agents and toxins and equipment for the processing, use or production of bacteriological (biological) agents and toxins for peaceful purposes in accordance with the provisions of the Convention.

ARTICLE XI

Any State Party may propose amendments to this Convention. Amendments shall enter into force for each State Party accepting the amendments upon their acceptance by a majority of the States Parties to the Convention and thereafter for each remaining State Party on the date of acceptance by it.

ARTICLE XII

Five years after the entry into force of this Convention, or earlier if it is requested by a majority of Parties to the Convention by submitting a proposal to this effect to the Depositary Governments, a conference of States Parties to the Convention shall be held at Geneva, Switzerland, to review the operation of the Convention, with a view to assuring that the purposes of the preamble and the provisions of the Convention, including the provisions concerning negotiations on chemical weapons, are being realized. Such review shall take into account any new scientific and technological developments relevant to the Convention.

ARTICLE XIII

(1) This Convention shall be unlimited duration.

(2) Each State Party to this Convention shall in exercising its national sovereignty have the right to withdraw from the Convention if it decides that extraordinary events, related to the subject matter of the Convention, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other States Parties to the Convention and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

ARTICLE XIV

(1) This Convention shall be open to all States for signature. Any State which does not sign the Convention before its entry into force in accordance with paragraph (3) of this Article may accede to it at any time.

(2) This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics, which are hereby designated the Depositary Governments.

(3) This Convention shall enter into force after the deposit of instruments of ratification by twenty-two Governments, including the Governments designated as Depositaries of the Convention.

(4) For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

(5) The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or of accession and the date of the entry into force of this Convention, and of the receipt of other notices.

(6) This Convention shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

ARTICLE XV

This Convention, the English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of the Convention shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

1. The Antarctic Treaty [1]

Signed at Washington, D.C. December 1, 1959; U.S. ratification deposited August 18, 1960; entered into force June 23, 1961

The Governments of Argentina, Australia, Belgium, Chile, the French Republic, Japan, New Zealand, Norway, the Union of South Africa, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America,

Recognizing that it is in the interest of all mankind that Antarctica shall continue forever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord;

Acknowledging the substantial contributions to scientific knowledge resulting from international cooperation in scientific investigation in Antarctica;

Convinced that the establishment of a firm foundation for the continuation and development of such cooperation on the basis of freedom of scientific investigation in Antarctica as applied during the International Geophysical Year accords with the interests of science and the progress of all mankind;

Convinced also that a treaty ensuring the use of Antarctica for peaceful purposes only and the continuance of international harmony in Antarctica will further the purposes and principles embodied in the Charter of the United Nations;

Have agreed as follows:

ARTICLE I

1. Antarctica shall be used for peaceful purposes only. There shall be prohibited, *inter alia,* any measures of a military nature, such as the establishment of military bases and fortifications, the carrying out of military maneuvers, as well as the testing of any type of weapons.

2. The present Treaty shall not prevent the use of military personnel or equipment for scientific research or for any other peaceful purpose.

ARTICLE II

Freedom of scientific investigation in Antarctica and cooperation toward that end, as applied during the International Geophysical Year, shall continue, subject to the provisions of the present Treaty.

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[1] 12 UST 794; TIAS 4780; 402 UNTS 71. For a list of states which are parties to this Treaty, see Department of State publication, *Treaties in Force.*

ARTICLE III

1. In order to promote international cooperation in scientific investigation in Antarctica, as provided for in Article II of the present Treaty, the Contracting Parties agree that, to the greatest extent feasible and practicable:

(a) information regarding plans for scientific programs in Antarctica shall be exchanged to permit maximum economy and efficiency of operations;

(b) scientific personnel shall be exchanged in Antarctica between expeditions and stations;

(c) scientific observations and results from Antarctica shall be exchanged and made freely available.

2. In implementing this Article, every encouragement shall be given to the establishment of cooperative working relations with those Specialized Agencies of the United Nations and other international organizations having a scientific or technical interest in Antarctica.

ARTICLE IV

1. Nothing contained in the present Treaty shall be interpreted as:

(a) a renunciation by any Contracting Party of previously asserted rights of or claims to territorial sovereignty in Antarctica,

(b) a renunciation or diminution by any Contracting Party of any basis of claim to territorial sovereignty in Antarctica which it may have whether as a result of its activities or those of its nationals in Antarctica, or otherwise;

(c) prejudicing the position of any Contracting Party as regards its recognition or non-recognition of any other State's right of or claim or basis of claim to territorial sovereignty in Antarctica.

2. No acts or activities taking place while the present Treaty is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in Antarctica or create any rights of sovereignty in Antarctica. No new claim, or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the present Treaty is in force.

ARTICLE V

1. Any nuclear explosions in Antarctica and the disposal there of radioactive waste material shall be prohibited.

2. In the event of the conclusion of international agreements concerning the use of nuclear energy, including nuclear explosions and the disposal of radioactive waste material, to which all of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX are parties, the rules established under such agreements shall apply in Antarctica.

ARTICLE VI

The provisions of the present Treaty shall apply to the area south of 60° South Latitude, including all ice shelves, but nothing in the present Treaty shall prejudice or in any way affect the rights, or the exercise of the rights, of any State under international law with regard to the high seas within that area.

ARTICLE VII

1. In order to promote the objectives and ensure the observance of the provisions of the present Treaty, each Contracting Party whose representatives are entitled to participate in the meetings referred to in Article IX of the Treaty shall have the right to designate observers to carry out any inspection provided for by the present Article. Observers shall be nationals of the Contracting Parties which designate them. The names of observers shall be communicated to every other Contracting Party having the right to designate observers, and like notice shall be given of the termination of their appointment.

2. Each observer designated in accordance with the provisions of paragraph 1 of this Article shall have complete freedom of access at any time to any or all areas of Antarctica.

3. All areas of Antarctica, including all stations, installations and equipment within those areas, and all ships and aircraft at points of discharging or embarking cargoes or personnel in Antarctica, shall be open at all times to inspection by any observers designated in accordance with paragraph 1 of this Article.

4. Aerial observation may be carried out at any time over any or all areas of Antarctica by any of the Contracting Parties having the right to designate observers.

5. Each Contracting Party shall, at the time when the present Treaty enters into force for it, inform the other Contracting Parties, and thereafter shall give them notice in advance, of

(a) all expeditions to and within Antarctica, on the part of its ships or nationals, and all expeditions to Antarctica organized in or proceeding from its territory;

(b) all stations in Antarctica occupied by its nationals; and

(c) any military personnel or equipment intended to be introduced by it into Antarctica subject to the conditions prescribed in paragraph 2 of Article I of the present Treaty.

ARTICLE VIII

1. In order to facilitate the exercise of their functions under the present Treaty, and without prejudice to the respective positions of Contracting Parties relating to jurisdiction over all other persons in Antarctica, observers designated under paragraph 1 of Article VII and scientific personnel exchanged under subparagraph 1(b) of Article III of the Treaty, and members of the staffs accompanying any such persons, shall be subject only to the jurisdiction of the Contracting Party of which they are nationals in respect to all acts or omissions occuring while they are in Antarctica for the purpose of exercising their functions.

2. Without prejudice to the provisions of paragraph 1 of this Article, and pending the adoption of measures in pursuance of subparagraph 1(e) of Article IX, the Contracting Parties concerned in any case of dispute with regard to the exercise of jurisdiction in Antarc-

tica shall immediately consult together with a view to reaching a mutually acceptable solution.

ARTICLE IX

1. Representatives of the Contracting Parties named in the preamble to the present Treaty shall meet at the City of Canberra within two months after the date of entry into force of the Treaty, and thereafter at suitable intervals and places, for the purpose of exchanging information, consulting together on matters of common interest pertaining to Antarctica, and formulating and considering, and recommending to their Governments, measures in furtherance of the principles and objectives of the Treaty, including measures regarding:

(a) use of Antarctica for peaceful purposes only;

(b) facilitation of scientific research in Antarctica;

(c) facilitation of international scientific cooperation an Antarctica;

(d) facilitation of the exercise of the rights of inspection provided for in Article VII of the Treaty;

(e) questions relating to the exercise of jurisdiction in Antarctica;

(f) preservation and conservation of living resources in Antarctica;

2. Each Contracting Party which has become a party to the present Treaty by accession under Article XIII shall be entitled to appoint representatives to participate in the meetings referred to in paragraph 1 of the present Article, during such time as that Contracting Party demonstrates its interest in Antarctica by conducting substantial scientific research activity there, such as the establishment of a scientific station or the despatch of a scientific expedition.

3. Reports from the observers referred to in Article VII of the present Treaty shall be transmitted to the representatives of the Contracting Parties participating in the meetings referred to in paragraph 1 of the present Article.

4. The measures referred to in paragraph 1 of this Article shall become effective when approved by all the Contracting Parties whose representatives were entitled to participate in the meetings held to consider those measures.

5. Any or all of the rights established in the present Treaty may be exercised as from the date of entry into force of the Treaty whether or not any measures facilitating the exercise of such rights have been proposed, considered or approved as provided in this Article.

ARTICLE X

Each of the Contracting Parties undertakes to exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any activity in Antarctica contrary to the principles or purposes of the present Treaty.

ARTICLE XI

1. If any dispute arises between two or more of the Contracting Parties concerning the interpretation or application of the present Treaty, those Contracting Parties shall consult among themselves with a view to having the dispute resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.

2. Any dispute of this character not so resolved shall, with the consent, in each case, of all parties to the dispute, be referred to the International Court of Justice for settlement; but failure to reach agreement on reference to the International Court shall not absolve parties to the dispute from the responsibility of continuing to seek to resolve it by any of the various peaceful means referred to in paragraph 1 of this Article.

ARTICLE XII

1. (a) The present Treaty may be modified or amended at any time by unanimous agreement of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX. Any such modification or amendment shall enter into force when the depositary Government has received notice from all such Contracting Parties that they have ratified it.

(b) Such modification or amendment shall hereafter enter into force as to any other Contracting Party when notice of ratification by it has been received by the depositary Government. Any such Contracting Party from which no notice of ratification is received within a period of two years from the date of entry into force of the modification or amendment in accordance with the provisions of subparagraph 1(a) of this Article shall be deemed to have withdrawn from the present Treaty on the date of expiration of such period.

2. (a) If after the expiration of thirty years from the date of entry into force of the present Treaty, any of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX so requests by a communication addressed to the depositary Government, a Conference of all the Contracting Parties shall be held as soon as practicable to review the operation of the Treaty.

(b) Any modification or amendment to the present Treaty which is approved at such a Conference by a majority of the Contracting Parties there represented, including a majority of those whose representatives are entitled to participate in the meetings provided for under Article IX, shall be communicated by the depositary Government to all the Contracting Parties immediately after the termination of the Conference and shall enter into force in accordance with the provisions of paragraph 1 of the present Article.

(c) If any such modification or amendment has not entered into force in accordance with the provisions of subparagraph 1(a) of this Article within a period of two years after the date of its communication to all the Contracting Parties, any Contracting Party may at any time after the expiration of that period give notice to the depositary Government of its withdrawal from the present Treaty;

and such withdrawal shall take effect two years after the receipt of the notice by the depositary Government.

ARTICLE XIII

1. The present Treaty shall be subject to ratification by the signatory States. It shall be open for accession by any State which is a Member of the United Nations, or by any other State which may be invited to accede to the Treaty with the consent of all the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX of the Treaty.

2. Ratification of or accession to the present Treaty shall be effected by each State in accordance with its constitutional processes.

3. Instruments of ratification and instruments of accession shall be deposited with the Government of the United States of America, hereby designated as the depositary Government.

4. The depositary Government shall inform all signatory and acceding States of the date of each deposit of an instrument of ratification or accession, and the date of entry into force of the Treaty and of any modification or amendment thereto.

5. Upon the deposit of instruments of ratification by all the signatory States, the present Treaty shall enter into force for those States and for States which have deposited instruments of accession. Thereafter the Treaty shall enter into force for any acceding State upon the deposit of its instrument of accession.

6. The present Treaty shall be registered by the depositary Government pursuant to Article 102 of the Charter of the United Nations.

ARTICLE XIV

The present Treaty, done in the English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited in the archives of the Government of the United States of America, which shall transmit duly certified copies thereof to the Governments of the signatory and acceding States.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly authorized, have signed the present Treaty.

DONE at Washington this first day of December, one thousand nine hundred and fifty-nine.

E. DEPARTMENT OF STATE

CONTENTS

Page

1. State Department Procedures on Treaties and Other International Agreements (partial text of circular 175) 109
2. Organization and Administration 132
    a. Responsibilities of Chiefs of U.S. Diplomatic Missions (President Carter's letter to U.S. ambassadors) 132
    b. Interdepartmental Operations of the U.S. Government Overseas 135
        (1) The National Security Council System (Presidential Directive/NSC-2) 135
3. Passport Regulations 138
    a. Regulations of the Secretary of State, as amended (Subjects: Nationality Procedures, Passports, Marriage, Travel Control in Time of War or National Emergency) 138
    b. Presidential Proclamation 3004 (Control of Persons Leaving or Entering the United States) 163
4. Regulations of the Secretary of State (Acceptance of Gifts and Decorations From Foreign Governments) 166
5. Migration and Refugee Assistance 174
    a. Protocol Relating to the Status of Refugees (with reservation) 174
    b. Convention Relating to the Status of Refugees 179

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1. State Department Procedures on Treaties and Other International Agreements; Partial Text, Circular 175, 11 Foreign Affairs Manual, Chapter 700, "Treaties and Other International Agreements," Revised October 25, 1974

700—TREATIES AND OTHER INTERNATIONAL AGREEMENTS

710 PURPOSE

a. The purpose of this chapter is to facilitate the application of orderly and uniform measures and procedures the negotiation, signature, publication, and registration of treaties and other international agreements of the United States. It is also designated to facilitate the maintenance of complete and accurate records on treaties and agreements and the publication of authoritative information regarding them.

b. The chapter is not a catalog of all the essential guidelines or information pertaining to the making and application of international agreements. It is limited to guidelines or information necessary for general guidance.

711 DISCLAIMER

This chapter is intended solely as a general outline of measures and procedures ordinarily followed which, it is recognized, cannot anticipate all circumstances or situations that may arise. Deviation or derogation from the provisions of this chapter will not invalidate actions taken by officers nor affect the validity of negotiations engaged in or of treaties or other agreements concluded.

720 NEGOTIATION AND SIGNATURE

720.1 Circular 175 Procedure

This subchapter is a codification of the substance of Department Circular No. 175, December 13, 1955, as amended, on the negotiation and signatures of treaties and other international agreements. It may be referred to for convenience and continuity as the "Circular 175 Procedure."

720.2 General Objectives

The objectives are:

a. That the making of treaties and other international agreements for the United States is carried out within constitutional and other appropriate limits;

b. That the objectives to be sought in the negotiation of particular treaties and other international agreements are approved by the Secretary or an officer specifically authorized by him for that purpose;

c. That timely and appropriate consultation is had with congressional leaders and committees on treaties and other international agreements;

d. That where, in the opinion of the Secretary of State or his designee, the circumstances permit, the public be given an opportunity to comment on treaties and other international agreements;

e. That firm positions departing from authorized positions are not undertaken without the approval of the Legal Adviser and interested assistant secretaries or their deputies;

f. That the final texts developed are approved by the Legal Adviser and the interested assistant secretaries or their deputies and, when required, brought a reasonable time before signature to the attention of the Secretary or an officer specifically designated by him for that purpose;

g. That authorization to sign the final text is obtained and appropriate arrangements for signature are made;

h. That there is compliance with the requirements of Public Law 92-403 on the transmission of the texts of international agreements other than treaties to the Congress (see section 734); the law on the publication of treaties to other international agreements (see section 725); and treaty provisions on registration (see section 750-3).

721 EXERCISE OF THE INTERNATIONAL AGREEMENT POWER

721.1 Determination of Type of Agreement

The following considerations will be taken into account along with other relevant factors in determining whether an international agreement shall be dealt with by the United States as a treaty to be brought into force with the advice and consent of the Senate, or as an agreement to be brought into force on some other constitutional basis.

721.2 Constitutional Requirements

There are two procedures under the Constitution through which the United States becomes a party to international agreements. Those procedures and the constitutional parameters of each are:

a. Treaties

International agreements (regardless of their title, designation, or form) whose entry into force with respect to the United States takes place only after the Senate has given its advice and consent are "treaties." The President, with the advice and consent of two-thirds of the Senators present, may enter into an international agreement on any subject genuinely of concern in foreign relations, so long as the agreement does not contravene the United States Constitution; and

b. International Agreements Other Than Treaties

International agreements brought into force with respect to the United States on a constitutional basis other than with the advice and consent of the Senate are "international agreements other than treaties." (The term "executive agreement" is appropriately reserved for agreements made solely on the basis of the constitutional authority of the President.) There are three constitutional bases for international agreements other than treaties as set forth below. An international agreement may be concluded pursuant to one or more of these constitutional bases:

(1) Agreements Pursuant to Treaty.—The President may conclude an international agreement pursuant to a treaty brought into force with the advice and consent of the Senate, whose provisions constitute authorization for the agreement by the Executive without subsequent action by the Congress;

(2) Agreements Pursuant to Legislation.—The President may conclude an international agreement on the basis of existing legislation or subject to legislation to be enacted by the Congress; and

(3) Agreements Pursuant to the Constitutional Authority of the President.—The President may conclude an international agreement on any subject within his constitutional authority so long as the agreement is not inconsistent with legislation enacted by the Congress in the exercise of its constitutional authority. The constitutional sources of authority for the President to conclude international agreements include:

(a) The President's authority as Chief Executive to represent the nation in foreign affairs;

(b) The President's authority to receive ambassadors and other public ministers;

(c) The President's authority as "Commander-in-Chief"; and

(d) The President's authority to "take care that the laws be faithfully executed."

721.3 Consideration for Selecting Among Constitutionally Authorized Procedures

In determining a question as to the procedure which should be followed for any particular international agreement, due consideration is given to the following factors along with those in section 721.2:

a. The extent to which the agreement involves commitments or risks affecting the nation as a whole;

b. Whether the agreement is intended to affect State laws;

c. Whether the agreement can be given effect without the enactment of subsequent legislation by the Congress;

d. Past U.S. practice as to similar agreements;

e. The preference of the Congress as to a particular type of agreement;

f. The degree of formality desired for an agreement;

g. The proposed duration of the agreement, the need for prompt conclusion of an agreement, and the desirability of concluding a routine or short-term agreement; and

h. The general international practice as to similar agreements.

In determining whether any international agreement should be brought into force as a treaty or as an international agreement other than a treaty, the utmost care is to be exercised to avoid any invasion or compromise of the constitutional powers of the Senate, the Congress as a whole, or the President.

721.4 Questions as to Type of Agreement To Be Used; Consultation With Congress

a. All legal memorandums accompanying Circular 175 requests (see section N 722.3g) will discuss thoroughly the bases for the type of agreement recommended.

b. When there is any question whether an international agreement should be concluded as a treaty or as an international agreement other than a treaty, the matter is brought to the attention of the Legal Adviser of the Department. If the Legal Adviser considers the question to be a serious one that may warrant congressional consultation, a memorandum will be transmitted to the Assistant Secretary for Congressional Relations and other officers concerned. Upon receiving their views on the subject, the Legal Adviser shall, if the matter has not been resolved, transmit a memorandum thereon to the Secretary for a decision. Every practicable effort will be made to identify such questions at the earliest possible date so that consultations may be completed in sufficient time to avoid last-minute consideration.

c. Consultations on such questions will be held with congressional leaders and committees as may be appropriate. Arrangements for such consultations shall be made by the Assistant Secretary for Congressional Relations and shall be held with the assistance of the Office of the Legal Adviser and such other offices as may be determined. Nothing in this section shall be taken as derogating from the requirement of appropriate consultations with the Congress in accordance with section 723.1e in connection with the initiation of, and developments during negotiations for international agreements, particularly where the agreements are of special interest to the Congress.

722 AUCTION REQUIRED IN NEGOTIATION AND/OR SIGNATURE OF TREATIES AND AGREEMENTS

722.1 Authorization Required to Undertake Negotiations

Negotiations of treaties, or other international agreements on matters of substance, or for their extension or revision, are not to be undertaken, nor any exploratory discussions undertaken with representatives of another government, until authorized in writing by the Secretary or an officer specifically authorized by the Secretary for that purpose. Notification of the termination of any treaty or other international agreement on matters of substance requires authorization.

722.2 Scope of Authorization

Approval of a request for authorization to negotiate a treaty or other international agreement does not constitute advance approval of the text nor authorizations to agree upon a date for signature or to sign the treaty or agreement. Authorization to agree upon a given date for, and to proceed with, signature must be specifically requested in writing, as provided in section 722.3. This applies to treaties and other agreements to be signed abroad as well as those to be signed at Washington. Special instructions may be required, because of the special circumstances involved, for multilateral conventions or agreements to be signed at international conferences.

722.3 Request for Authorization to Negotiate and/or Sign; Action Memorandum

a. A request for authorization to negotiate and/or sign a treaty or other international agreement takes the form of an action memorandum addressed to the Secretary and cleared with the Office of the Legal Adviser, the Office of the Assistant Secretary for Congressional Relations, other appropriate bureaus, and any other agency (such as Defense, Commerce, etc.) which has primary responsibility or a substantial interest in the subject matter. It is submitted through the Executive Secretariat.

b. The action memorandum may request one of the following: (1) authority to negotiate, (2) authority to sign, or (3) authority to negotiate and sign. The request in each instance states that any substantive changes in the draft text will be cleared with the Office of the Legal Adviser and other specified regional and/or functional bureaus before definitive agreement is reached. Drafting offices consult closely with the Office of the Legal Adviser to insure that all legal requirements are met.

c. The action memorandum indicates what arrangements are planned as to (1) congressional consultation, and (2) opportunity for public comment on the treaty or agreement being negotiated, signed, or acceded to.

d. The action memorandum shall indicate (1) whether a proposed treaty or agreement embodies a commitment to furnish funds, goods, or services beyond or in addition to those authorized in an approved budget, and if so, (2) arrangements planned or carried out concerning consultation with the Office of Management and Budget (OMB) for such commitment.

e. The Department will not authorize such commitments without confirmation that the relevant budget approved by the President requests or provides funds adequate to fulfill the proposed commitment or that the President has made a determination to seek the required funds.

f. Where it appears that there may be obstacles to the immediate public disclosure of the text upon its entry into force, the action memorandum shall include an explanation thereof (see sections 723.2 and 723.3).

g. The action memorandum is accompanied by (1) the draft, if available, of any agreement or other instrument intended to be negotiated, (2), the text of any agreement and related exchange of notes, agreed minutes or other document to be signed, and (3) a memorandum of law prepared in the Office of the Legal Adviser.

722.4 Separate Authorizations

When authorization is sought for a particular treaty or other agreement, either multilateral or bilateral, the action memorandum for this purpose outlines briefly and clearly the principal features of the proposed treaty or other agreements, indicates any special problems which may be encountered, and, if possible, the contemplated solutions of those problems.

722.5 Blanket Authorizations

In general, blanket authorizations are appropriate *only* in those instances where, in carrying out or giving effect to provisions of law or policy decisions, a series of agreements of the same general type is contemplated; that is, a number of agreements to be negotiated according to a more or less standard formula (for example, Public Law 480 Agricultural Commodities Agreements; Educational Exchange Agreements; Investment Guaranty Agreements; Weather Station Agreements, etc.) or a number of treaties to be negotiated according to a more or less standard formula (for example, consular conventions, extradition treaties, etc.). Each request for blanket authorization shall specify the office or officers to whom the authority is to be delegated. The basic precepts under section 722.3 and 722.4 apply equally to requests for blanket authorizations.

722.6 Certificate on Foreign-Language Text

a. Before any treaty or other agreement containing a foreign-language text is laid before the Secretary (or any person authorized by the Secretary) for signature, either in the Department or at a post, a signed memorandum must be obtained from a responsible language officer of the Department certifying that the foreign-language text and the English-language text are in conformity with each other and that both texts have the same meaning in all substantive respectives. A similar certification must be obtained for exchanges of notes that set forth the terms of an agreement in two languages.

b. In exceptional circumstances the Department can authorize the certification to be made at a post.

722.7 Transmission of Texts to the Secretary

The texts of treaties and other international agreements must be completed and approved in writing by all responsible officers concerned sufficiently in advance to give the Secretary, or the person to whom authority to approve the text had been delegated, adequate time before the date of signing to examine the text and dispose of any questions that arise. Posts must transmit the texts to the Department as expeditiously as feasible to assure adequate time for such consideration. Except as otherwise specifically authorized by the Secretary, a complete text of a treaty or other international agreement must be delivered to the Secretary, or other person authorized to approve the text, before any such text is agreed upon as final or any date is agreed upon for its signature.

723 RESPONSIBILITY OF OFFICE OR OFFICERS CONDUCTING NEGOTIATIONS

723.1 Conduct of Negotiations

The office or officer responsible for any negotiations keeps in mind:

a. That during the negotiations no position is communicated to a foreign government or to an international organization as a U.S. position that goes beyond any existing authorization or instructions;

b. That no proposal is made or position is agreed to beyond the original authorization without appropriate clearance (see section 722.3a);

c. That all significant policy-determining memorandums and instructions to the field on the subject of the negotiations have appropriate clearance (see section 722.3a);

d. That the Secretary is kept informed in writing of important policy decisions and developments, including any particularly significant departures from substantially standard drafts that have been evolved;

e. That with the advice and assistance of the Assistant Secretary for Congressional Relations, the appropriate congressional leaders and committees are advised of the intention to negotiate significant new international agreements, consulted concerning such agreements, and kept informed of developments affecting them, including especially whether any legislation is considered necessary or desirable for the implementation of the new treaty or agreement. Where the proposal for any especially important treaty or other international agreement is contemplated, the Office of the Assistant Secretary for Congressional Relations will be informed as early as possible by the office responsible for the subject;

f. That the interest of the public be taken into account and, where in the opinion of the Secretary of State or his designee the circumstances permit, the public be given an opportunity to comment;

g. That in no case, after accord has been reached on the substance and wording of the texts to be signed, do the negotiators sign an agreement or exchange notes constituting an agreement until a request under section 722.3 for authorization to sign has been approved and, if at a post abroad, until finally instructed by the Department to do so as stated in section 730.3. If an agreement is to be signed in two languages, each language text must be cleared in full with the Language Service Division, if at a post abroad, with the Department before signature, as stated in section 722.6;

h. That due consideration is given also to the provisions of sections 723.2 through 723.9, 730.3, and 731 of this chapter; and

i. That, in any case where any other department or agency is to play a primary or significant role or has a major interest in negotiation of an international agreement, the appropriate or officials in such department or agency are informed of the provisions of this subchapter.

723.2 Avoiding Obstacles to Publication and Registration

The necessity of avoiding any commitment incompatible with the law requiring publication (1 U.S.C. 112a) and with the treaty provisions requiring registration (see section 750.3-3) should be borne in mind by U.S. negotiators. Although negotiations may be conducted on a confidential basis, every practicable effort must be made to assure that any definitive agreement or commitment entered into will be devoid of any aspect which would prevent the publication and registration of the agreement.

723.3 Questions on Immediate Public Disclosure

In any instance where it appears to the officer or office in the Department responsible for the negotiations or to the U.S. representatives that the immediate public disclosure upon its entry into force of an agreement under negotiation would be prejudicial to the national security of the United States, the pertinent circumstances shall be reported to the Secretary of State and his decision awaited before any further action is taken. Where such circumstances are known before authorization to negotiate or to sign is requested, they shall be included in the request for authorization. All such reports and requests are to be cleared with the Office of the Legal Adviser.

723.4 Public Statements

No public statement is to be made indicating that agreement on a text has been reached, or that negotiations have been successfully completed, before authorization is granted to sign the treaty or other agreement. If such authorization has been granted subject to a condition that no substantive change in the proposed text is made without appropriate clearance (see section 722.3a), no such public statement is to be made until definitive agreement on the text has been reached and such clearance has been received. Normally, such a public statement is made only at the time a treaty or other agreement is actually signed, inasmuch as it remains possible that last-minute changes will be made in the text. Any such statement prior to that time must have the appropriate clearance, and the approval of the Secretary or the Department principal who originally approved the action memorandum request under "Circular 175 Procedure."

723.5 English-Language Text

Negotiators will assure that every bilateral treaty or other international agreement to be signed for the United States contains an English-language text. If the language of the other country concerned is one other than English the text is done in English and, if desired by the other country, in the language of that country. A U.S. note that constitutes part of an international agreement affected by exchange of notes is always in the English language. If it quotes in full a foreign office note, the quotation is to be rendered in English translation. A U.S. note is not in any language in addition to English, unless specifically authorized. The note of the other government concerned may be in whatever language that government desires.

723.6 Transmission of Signed Texts to Assistant Legal Adviser for Treaty Affairs

a. The officer responsible for the negotiation of a treaty or other agreement at any post is responsible for insuring the most expeditious transmission of the signed original text, together with all accompanying papers such as agreed minutes, exchanges of notes, plans, etc., to the Department for the Attention of the Assistant Legal Adviser for Treaty Affairs: *Provided,* That where originals are not available accurate certified copies are obtained and transmitted as in the case of the original. (See sections 723.7, 723.8, and 723.9.) The transmittal is by airgram, *not* by transmittal slip or operations memorandum.

b. Any officer in the Department having possession of or receiving from any source a signed original or certified copy of a treaty or agreement or of a note or other document constituting a part of a treaty or agreement must forward such documents immediately to the Assistant Legal Adviser for Treaty Affairs.

723.7 Transmission of Certified Copies to the Department

When an exchange of diplomatic notes between the mission and a foreign government constitutes an agreement or has the effect of extending, modifying, or terminating an agreement to which the United States is a party, a properly certified copy of the note from the mission to the foreign government, and the signed original of the note from the foreign government, are sent, as soon as practicable, to the Department for the attention of the Assistant Legal Adviser for Treaty Affairs. The transmittal is by airgram *not* by transmittal slip or operations memorandum.

Likewise, if, in addition to the treaty or other agreement signed, notes related thereto are exchanged (either at the same time, beforehand, or thereafter), a properly certified copy (copies) of the note(s) from the mission to the foreign government are transmitted with the signed original(s) of the note(s) from the foreign government.

In each instance, the mission retains for its file certified copies of the note exchanged. The U.S. note is prepared in accordance with the rules prescribed in the Correspondence Handbook. The note of the foreign government is prepared in accordance with the style of the foreign office and usually in the language of that country. Whenever practicable, arrangements are made for the notes to bear the same date.

723.8 Certification of Copies

If a copy of a note is a part of an international agreement, such copy is certified by a duly commissioned and qualified Foreign Service officer either (a) by a certification on the document itself, or (b) by a separate certification attached to the document. A certification on the document itself is placed at the end of the document. It indicates, either typed or rubber stamped, that the document is a true dopy of the original signed (or initialed) by *(insert full name of signing officer)*, and it is signed by the certifying officer. If a certification is typed on a separate sheet of paper, it briefly describes the document certified and states that it is a true copy of the original signed (or initialed) by *(full name)* and it is signed by the certifying officer. The certification may be stapled to the copy of the note.

723.9 Preparation of Copies for Certification

For purposes of accuracy of the Department's records and publication and registration, a certified copy must be an exact copy of the signed original. It must be made either by typewriter (ribbon or carbon copy) or by facsimile reproduction on white durable paper (not by the duplicate method) and must be *clearly legible*. In the case of notes, the copy shows the letterhead, and date and, if signed, an indication of the signature or, if merely initialed, the initials which appear on the original. It is suggested that, in the case of a note from the mission to the foreign government, the copy for certification and transmission to the Department by made at the same time the original is prepared. If the copy is made at the same time, the certificate prescribed in section 723.8 may state that the document is a true and correct copy of the signed original. If it is not possible to make a copy at the same time the original is prepared, the certificate indicates that the document is a true and correct copy of the copy on file in the mission. The world "(Copy)" is not placed on the document which is being certified; the word "(Signed)" is not placed before the indication of signatures. Moreover, a reference to the transmitting airgram, such as "Enclosure 1 to Airgram No. 18 (etc.)," is not placed on the certified document. The identification of such a document as an enclosure to an airgram may be typed on a separate slip of paper and attached to the document, but in such a manner that it may be easily removed without defacing the document.

724 TRANSMISSION OF INTERNATIONAL AGREEMENTS OTHER THAN TREATIES TO CONGRESS; COMPLIANCE WITH PUBLIC LAW 92-403

All officers will be especially diligent in cooperating to assure compliance with Public Law 92-403 "An Act To require that international agreements other than treaties, hereafter entered into by the United States, be transmitted to the Congress within sixty days after the execution thereof." That Act, approved August 22, 1972 (86 Stat. 619; 1 U.S.C. 112b), provides as follows:

> The Secretary of State shall transmit to the Congress the text of any international agreement other than a treaty, to which the United States is a party as soon as practicable after such agreement has entered into force with respect to the United States but in no event later than sixty days thereafter. However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President.

725 PUBLICATION OF TREATIES AND OTHER INTERNATIONAL AGREEMENTS OF THE UNITED STATES

The attention of all officers is directed to the requirements of the Act of September 3, 1950 (64 Stat. 979; 1 U.S.C. 112a), which provides as follows:

> The Secretary of State shall cause to be compiled, edited, indexed, and published, beginning as of January 1, 1950, a compilation entitled "United States Treaties and Other International Agreements," which shall contain all treaties to which the United States is a party that have been

proclaimed during each calendar year, and all international agreements other than treaties to which the United States is a party that have been signed, proclaimed, or with reference to which any other final formality has been executed, during each calendar year. The said United States Treaties and Other International Agreements shall be legal evidence of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and agreements, therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States.

730 GUIDELINES FOR CONCLUDING INTERNATIONAL AGREEMENTS

730.1 Method of Concluding Bilateral and Multilateral Agreements

An agreement may be concluded (entered into) by the process of bilateral negotiations which result either in the signing of a single instrument in duplicate or in exchange of diplomatic notes, or by the process of multilateral negotiations, usually at an international conference to which the governments concerned send official delegations for the purpose of formulating and signing an instrument of agreement.

730.2 Bilateral Treaties and Agreements

730.2-1 Negotiation and Background Assistance

Whenever the negotiation of a new international agreement is under consideration, the Department office or the post having primary responsibility informs the Legal Adviser and may, if considered necessary, request background material and advice regarding relevant provisions in existing treaties and agreements, the general treaty relations of this Government with the government or governments concerned, and other pertinent information.

730.2-2 Role of Office of the Legal Adviser

a. Legal Review of Draft Agreements

As soon as tentative provisions for an agreement are considered or drafted, the Office of the Legal Adviser is requested to make available the services of an attorney-adviser to insure that the agreement is properly drafted and agreed policy is expressed clearly and fully. The Office of the Legal Adviser prepares a draft in the first instance upon the request of another office.

b. Legal Clearance Required

Any draft of a proposed treaty or agreement, or any outgoing correspondence regarding the negotiation, signature, and ratification or approval, as well as the existence, status, and application, of any international agreement to which the United States is or may become a party, is cleared with the Office of the Legal Adviser and with other appropriate bureaus or offices and, as appropriate with any other agency concerned with the reply.

730.3 Instructions to Negotiators

When an agreement is to be concluded at a foreign capital, the Department designates the American negotiator or negotiators, and the negotiator or negotiators are given appropriate instructions. If the agreement to be negotiated is a treaty which will be referred to the Senate, the Secretary of State may at some time prior to or during the negotiations issue or request the President to issue a "full power" (see section 732) constituting formal authorization for the American negotiators to sign the agreement. Such a "full power" is not customary with respect to an international agreement other than a treaty. The receipt or possession of a "full power" is never to be considered as a final authorization to sign. That authorization is given by the Department by a written or telegraphic instruction, and no signature is affixed in the absence of such instruction. If the proposal for an agreement originates with the United States, the American negotiators as a rule furnish a tentative draft of the proposed agreement for submission to the other government for its consideration. The negotiators submit to the Department any modification of the draft or any counterproposal made by the other government and await instructions from the Department. If the original proposal emanates from a foreign government, the mission forwards the proposal to the Department and awaits its instructions.

730.4 Preparation of Texts for Signature

If an agreement is to be signed at a post abroad as a single instrument (in duplicate), the engrossing (preparation of the documents to be signed) is customarily done in the foreign office on paper supplied by it, along with a binding and ribbons to tie the pages in place. However, the mission may lend assistance if the foreign office so desires. There is no universal standard as to the kind or size of paper which must be used (each foreign office has its own "treaty paper"), and the texts may be engrossed either by typing or by printing. For every bilateral agreement there must be two originals, one for each government. Each original must embody the full text of the agreement in all the languages in which the agreement is to be signed, and must be exactly the same as the other original subject only to the principle of the "alternat."

In the case of an agreement effected by exchange of notes, the U.S. note is prepared in accordance with 5 FAM 220 through 224 and the rules prescribed in the Correspondence Handbook. The note of the foreign government is prepared in accordance with the style of the foreign office and usually in the language of that country. Whenever practicable, arrangements are made for the notes to bear the same date.

730.5 Principle of the Alternat

730.5-1 Arrangement of Texts

When English and a language other than English are both used, the texts in the two languages are placed (a) in parallel, vertical columns on the same page, the columns being approximately of equal width, or (b) on opposite facing pages of the document the entire width of the typed or printed space on the page, or (c) in "tandem" fashion, that is, with one text following the other. The tandem procedure is the most widely used as it is the most expeditious.

If the first-mentioned style is used, the English text is placed in the left column of each page in the original, to be retained by the United States, and the foreign text appears in the right column. In the other original to be retained by the foreign government, the foreign text appears in the left column, and the English text in the right column.

If the two languages are placed on opposite facing pages of the document, the English text occupies the left-hand page and the foreign text the right-hand page in the U.S. original, and conversely in the foreign government's original.

If the two languages are placed "tandem" fashion, the English text is placed first in the U.S. original, and conversely in the foreign government's original.

If the parallel-column style is used, each representative will sign once in the center of the page of each of two originals. If either the "opposite facing page" or the "tandem" style is used, the concluding part (usually beginning "In Faith Whereof," "In Witness Whereof," "Done," etc.) should appear engrossed in parallel columns on the page on which the signatures will appear, so that only one set of signatures is required for each separately bound document. If parallel columns are not feasible, the concluding paragraphs can be placed "tandem" fashion on the page on which the signatures appear.

If an oriental text is one which, from the occidental viewpoint reads from back to front, it may be possible to join the two texts in a single binding so that the signatures appear, roughly speaking, in the center of the document. Separate bindings for the two languages are not desirable if any of the methods first mentioned is feasible, although extraordinary circumstances may justify exceptions. In the event of exceptional circumstances affecting the engrossing, it would be well for the negotiators to seek instructions from the Department.

730.5-2 Arrangement of Names and Signatures; Use of Titles

In the original to be retained by the United States, the United States and the plenipotentiary of the United States are named first in both the English and foreign texts, wherever the names of the countries or of the plenipotentiaries occur together conjunctively or disjunctively; and the signature of the plenipotentiary of the United States appears above the signature of the foreign plenipotentiary. Conversely, throughout both of the language texts of the original to be retained by the foreign government, the government and its plenipotentiary are named first and that plenipotentiary's signature appears above the signature of the U.S. plenipotentiary. Some countries prefer that the signatures be side by side. Where that procedure is followed, the signatures of the U.S. plenipotentiary appears on the left and that of the foreign plenipotentiary on the right of the original to be retained by the United States on the original to be retained by the foreign government the signature of the foreign plenipotentiary will appear on the left and the signature of the U.S. plenipotentiary on the right. The position of full sentences, paragraphs, or subparagraphs in the text is never transposed in the alternat procedure.

The general practice and preference of the Department of State is not to use titles along with signatures, especially where the President or the Secretary of State signs. However, if preferred by the other party or parties concerned, titles may be typed below the place where each will sign.

731 CONFORMITY OF TEXTS

After the documents have been engrossed on the basis of agreed texts, and before the signing of the agreement, the negotiators or other responsible officers on each side made sure that the texts in both originals of the engrossed agreement are in exact conformity with each other and with the texts in the drafts agreed to, and especially that where a foreign language is included that text and the English text are in conformity in all substantive respects. Prior to engrossing it should have been determined that the foriegn-language text is essentially (this is, as a matter of substance) in accord with the English text, and that it has received the clearance of the Department as required in section 722.6.

732 EXCHANGE OR EXHIBITION OF FULL POWERS

Each representative who is to sign a treaty is furnished a full power signed by the Head of State, Head of Government, or Minister for Foreign Affairs. More than one representative may be named in a single instrument of full power. Formal full powers may be (but customarily are not) issued also for the signing of certain agreements other than treaties. When issued, the full power is formal evidence of the authority of the representative to sign on behalf of the representative's government. It names the representative, with title, and gives a clear indication of the particular instrument of agreement which the representative is entitled to sign. If the agreement itself requires the exchange of full powers, they are exchanged. If not, they may be either exchanged or exhibited by the representatives on the occasion of signing the agreement, as may be preferred by the foreign representative. If exchanged, the original full power of the foreign representative is forwarded to the Department with the U.S. original of the signed agreement. If the representatives retain the original of their respective full powers, each representative should supply the other representative with an offset copy of a certified copy of the full power.

733 SIGNATURE AND SEALING

When the engrossing of a treaty or other international agreement which is to be signed as a single instrument has been completed, mutually convenient arrangements for its signature are made by the host government. In the case of treaties, the signatures of the representatives may be accompanied by their respective seals, ribbons being fastened in the seals and binding the document. The same procedure may be followed for other agreements signed as single instruments. It is not essential that seals be affixed, unless the agreement specifically so requires. The representative's personal seal, if available, is used when seals accompany the signatures, except that if the other government concerned prefers official seals, the seal of the mission may be used.

(NOTE.—A personal seal may consist of a signet ring with initial(s) or family crest, written initials, etc.)

734 EXCHANGE OF RATIFICATIONS

734.1 Time and Place for Exchange

It is customary for a treaty to contain a simple provision to the effect that the instruments of ratification shall be exchanged at a designated capital, and that the treaty shall enter into force on the date of such exchange or at the expiration of a specified number of days or months following the date of subject to ratification by and with the advice and consent of the Senate, and as the time required for action on any particular treaty cannot be foreseen, it is preferable that provision is made in the treaty that the instruments of ratification are to be exchanged "as soon as possible" rather than within a specified period.

734.2 Effecting the Exchange

In exchanging instruments of ratification the representative of the United States hands to the representative of the foreign government a duplicate original of the President's instrument of ratification. In return, the representative of the foreign government hands to the representative of the United States the instrument of ratification executed by the head or the chief executive of the foreign government. A protocol, sometimes called *procès-verbal* or "Protocol of Exchange of Ratifications," attesting the exchange is signed by the two representatives when the exchange is made. No full power is required for this purpose. the protocol of exchange is signed in duplicate originals, one for each government, and the principle of the alternative is observed at the treaty. Before making the exchange and signing the *procès-verbal* or protocol of exchange the diplomatic representative of the United States must be satisfied that the ratification of the foreign government is an unqualified ratification, or subject only to such reservations or understanding as have been agreed to by the two governments.

734.3 Notification of Date of Exchange

In all cases, but particularly in those in which the treaty enters into force on the day of the exchange, it is essential that the mission notify the Department by telegram when arrangements have been completed from the exchange, and also when the exchange actually takes place. By the first pouch after the exchange takes place, if possible, the mission forwards to the Department the instrument of ratification of the foreign government and the U.S. Government original of the signed *procès-verbal* or protocol of exchange. The Department then will take such steps as may be necessary to have the proclamation of the treaty executed by the President.

740 MULTILATERAL TREATIES AND AGREEMENTS

740.1 General Procedures

The procedures for the making of multilateral agreements are in many respects the same as those for the making of bilateral agreements; for example, the general requirements in regard to full powers, ratification, proclamation, and publication. This subchapter covers those procedures which are at variance with bilateral procedures.

740.2 Negotiation

740.2-1 Function of International Conference

The international conference is the device usually employed for the negotiation of multilateral agreements. The greater the number of countries involved, the greater the necessity for such a conference. If only three or four countries are involved, it may be convenient to carry on the preliminary negotiations through correspondence and have a joint meeting of plenipotentiaries to complete the negotiations and to sign the document.

740.2-2 Invitation

Traditionally, the international conference was convened by one government extending to other interested governments an invitation (acceptance usually assured beforehand) to participate, the host government bearing most, if not all, of the expense incident to the physical aspects of the conference. This is still often the practice, but increasing numbers of conferences have been convened under the auspices, and at the call, of international organizations.

740.2-3 Statement of Purpose

When a call is made or invitations are extended for a conference for the formulation of a multilateral agreement, it is customary for a precise statement of purpose to accompany the call or the invitation. Sometimes, the invitation is also accompanied by a draft agreement to be used as a basis for negotiations. If the conference is called under the auspices of an international organization, the precise statement of purpose or the draft agreement may be prepared in preliminary sessions of the organization or by the Secretary of the organization.

740.2-4 Instructions to Negotiators

The U.S. delegation to a conference may be comprised of one or more representatives. As a rule, the U.S. delegation is furnished written instructions by the Department prior to the conference in the form of a position paper for the U.S. delegation cleared with the Secretary or an officer specifically authorized by him and other appropriate Department officers for that purpose, under the procedures described in section 722.3. The Office of Legal Adviser in all instances reviews drafts of international conventions to be considered in meetings of an international organization of which the United States is a member; when necessary, it also provides legal assistance at international conferences and meetings.

740.2-5 Final Acts of Conference

The "Final Act" of a conference must not contain international commitments. A Final Act must be limited to such matters as a statement or summary of the proceedings of the conference, the names of the states that participated, the organization of the conference and the committees established, resolutions adopted, the drafts of international agreements formulated for consideration by governments concerned, and the like. If an international agreement is to be opened for signature at the close of the conference, a text thereof may be annexed to the Final Act but must not be incorporated in the body thereof; the text to be signed must be prepared and bound separately for that purpose. Where a Final Act appears to embody international commitments, the U.S. representative reports the same to the Department and awaits specific instructions before taking any further action.

741 OFFICIAL AND WORKING LANGUAGES

a. General Procedures

The working languages of the conference and the official languages of the conference documents are determined by the conference. A conference does not necessarily adopt all of the same languages for both purposes. It is customary and preferable for all the official languages in which the final document is prepared for signature to be designated as having equal authenticity. It is possible however, for the conference to determine, because of special circumstances, that in the event of dispute one of the languages is to prevail and to include in the text of the agreement a provision to that effect. Before a U.S. delegation concurs in any such proposal, it must request instructions from the Department.

b. English-Language Text

Negotiators will use every practical effort to assure that an English-language text is part of the authentic text of any multilateral treaty negotiated for the United States. Where any question exists on this subject the negotiators should seek further instructions.

742 ENGROSSING

742.1 Language or Languages Used in Texts

The multilateral agreement drawn up at an international conference is engrossed for signature in the official language or languages adopted by the conference. (See section 741.) The engrossing ordinarily will be done by the conference secretariat.

742.2 Principle of the Alternat

The principle of the alternat (see section 730.5) does not apply in the case of a multilateral agreement, except in the remote case when an agreement between three or four governments is prepared for signature in the language of all the signatories and each of those governments is to receive a signed original of the agreement. Customarily, a multilateral agreement is prepared for signature in a single original, comprising all the original languages. That original is placed in the custody of a depositary (either a government or an international organization) which furnishes certified copies to all governments concerned.

742.2–1 Arrangements of Texts

The arrangement of multilateral agreement texts varies, depending largely on the number of languages used. As in the case of bilateral agreements, however, the basic alternatives in the case of multilateral agreements are parallel columns, facing pages, or "tandem," as follows:

a. Parallel Columns

If an agreement is to be signed in only two languages, the traditionally preferred method of arrangement of the texts has been parallel, vertical columns. This method may be used also if only three languages are used, but the three columns are necessarily so narrow that the method has been rarely used in such cases. When there are four official languages, however, it is possible to use the parallel-column method by placing two of the language texts on a left-hand page and the other two language texts on the facing right-hand page; this method has been used often and to good advantage in various inter-American agreements with English, Spanish, French, and Portuguese. If any of the languages is oriental, the parallel-column method may be inexpedient and one of the other methods may be necessary.

b. Facing Pages

If an agreement is to be signed in only two languages, and circumstances make it necessary or desirable, the facing-page method may be used for engrossing the texts for signature, so that one of the language texts will be on the left-hand page and the other will be on the facing right-hand page. When this method is used, it is desirable that at least the concluding part (usually beginning "In Faith Whereof," "In Witness Whereof," "Done," etc.) be engrossed in parallel columns on the page at the end of the texts in both languages so that only one set of signatures is required. If parallel columns are not feasible, the concluding paragraphs can be placed tandem-fashion (one language text after another) on the page at the end of the texts in both languages.

c. Tandem

If neither the parallel-column nor the facing-page arrangement is feasible for an agreement to be signed in two languages, and especially if signed in three or more languages, the texts may be arranged in tandem-style that is, one complete text following the other. This allows readily for any number of official texts; the tandem-style precedent of the Charter of the United Nations is followed for the preparation of agreements formulated under the auspices of the United Nations. It is desirable, whenever practicable, that the concluding part of each text be placed with the concluding part of each of the other texts in parallel columns on the page on which the first of the signatures appears, although the tandem arrangement described at the end of section 742.2–1b can be used.

742.2-2 Arrangements of Names and Signatures

The arrangement of names and signatures, although it may seem a minor matter, sometimes presents difficulties in the case of multilateral agreements. There may be variations of arrangements, depending on particular factors, but the arrangements most generally used is alphabetical according to the names of the countries concerned. An alphabetical listing, however, presents the further question, even when there are only two languages, of what language is to be used in determining the arrangement. It is a common practice to use the language of the host government or for an agreement formulated under the auspices of an international organization, to follow the precedents established by that organization. It is possible, in the event that agreement could not be reached regarding the arrangements of names of countries and signatures of plenipotentiaries, to have a drawing of lots, a device seldom used. In any event, the question is one to be determined by the conference.

742.3 Conformity of Texts

It is the primary responsibility of the delegations, acting in conference, to determine the conformity of the agreement texts which are to be signed. However, the conference secretary has a responsibility for checking the texts carefully to insure that, when put in final form for signature, the texts are in essential conformity.

743 FULL POWERS

In the case of a multilateral agreement drawn up at an international conference, this Government customarily (almost invariably, in the case of a treaty) issues to one or more of its representatives at the conference an instrument of full power authorizing signature of the agreement on behalf of the United States. In some instances, issuance of the full power is deferred until it is relatively certain that the agreement formulated is to be signed for the United States. (See section 732.) Ordinarily, that full power is presented by the representatives to the secretary general of the conference upon arrival of the delegation at the conference site. It may be submitted in advance of arrival, but usually that is not necessary. When the conference has formally convened, it usually appoints a credentials committee, to which all full powers and other evidence of authorization are submitted for examination. The full powers and related documents are retained by the credentials committee or the secretary general until the close of the conference. At the close of the conference, the full powers, related documents, and the signed original of the agreement are turned over to the government or the international organization designated in the agreement as the depositary authority, to be placed in its archives.

744 SIGNATURE AND SEALING (SEE ALSO SECTION 733)

744.1 Signature

Most multilateral agreements are signed. Some, however, are adopted by a conference or organziation after which governments become parties of adherence, accession, acceptance, or some other method not requiring signature (for example, conventions drawn up and adopted at sessions of the International Labor Organization). Procedures for the deposit of an instrument of aderence, accession, or acceptance are similar to procedures for the deposit of instruments of ratification. In some cases, accession or approval can be accomplished by formal notice through diplomatic channels.

744.2 Seals

Multilateral treaties do not usually provide for the use seals along with the signature of representatives. The large number of signatures would make the use of seals difficult and cumbersome.

745 DIPOSITION OF FINAL DOCUMENTS OF CONFERENCE

At the close of a conference, the remaining supply of working documents (for example, records of committee meetings, verbatim minutes, etc.) usually is placed in the custody of the host government or the organization which called the conference for appropriate disposition. It is not proper for definitive commitments constituting part of the agreement to be embodied in such working documents. Definitive commitments must be incorporated only in a final document to be signed or adopted as an international agreement. The final documents of the conference may include a Final Act (see section 740.2–5) and separately, the text(s) of agreement(s). The practice of signing a Final Act is still followed in many cases. In any event, any agreement formulated at the conference must be engrossed as a separate document and signed or adopted. The signed or adopted originals of the final documents of the conference are turned over to the government or international organization designated in such documents as depositary. If the conference is not held under the auspices of an organization, it is customary for the host government to be designated depositary, but it might be appropriate, even in such case, to name an organization, such as the United Nations, as depositary. The decision is made by the conference, with the concurrence of the government or international organization concerned.

746 PROCEDURE FOLLOWING SIGNATURE

746.1 Understandings or Reservations

If it is necessary to inform other governments concerned, and perhaps obtain their consent, with respect to an understanding, interpretation, or reservation included by the Senate in its resolution of advice and consent, this Government communicates with the depositary, which then carries on the necessary correspondence with the other governments concerned.

746.2 Deposit of Ratification

When the depositary for a multilateral agreement is a foreign government or an international organization, the U.S. instrument of ratification (or adherence, accession, acceptance, etc.) is sent by the Department to the appropriate Foreign Service mission or to the U.S. representative to the organization if there is a permanent representative. The mission or the representative deposits it with the depositary authority in accordance with the terms of the accompanying instruction from the Department concerning the time of deposit. When this Government is despositary for a multilateral agreement, posts are not authorized to accept instruments of ratification of foreign governments; that is, the foreign government cannot deposit its instrument with the post. If a post is requested to transmit an instrument of ratification to the Department, it must make clear to the foreign government that the post is acting only as a transmitting agent and that the ratification cannot be considered as accepted for deposit until received and examined by the Department.

746.3 Registration (See also section 750.3–3)

It is generally recognized that the depositary for a multilateral agreement has a primary responsibility for its registration. Normally, the depositary has custody not only of the original document of agreement but also of instruments of ratification and other formal documents. Consequently, the depositary is the most authoritative source of information and documentation.

750 RESPONSIBILITIES OF THE ASSISTANT LEGAL ADVISER FOR TREATY AFFAIRS

750.1 Preparation of Documents, Ceremonies, and Instructions

Carrying out and providing advice and assistance respecting the provisions of this chapter are the responsibility of the Assistant Legal Adviser for Treaty Affairs, who:

a. Reviews all drafts of international agreements, proposals by other governments or international organizations, instructions and position papers, all Circular 175 requests, and accompanying memorandums of law;

b. Makes all arrangements and supervises ceremonies at Washington for the signature of treaties or other international agreements; and prepares or arranges for the preparation of texts of treaties and other agreements to be signed at Washington;

c. Prepares or arranges for preparation of the Secretary of State's of reports to the President, and the President's messages to the Senate for transmission of treaties for advice and consent to ratification;

d. Prepares instruments of ratification or adherence, instruments or notifications of acceptance or approval, termination notices, and proclamations with respect to treaties or other international agreements;

e. Makes arrangements for the exchange or deposit of instruments of ratification, and deposit of instruments of adherence, the receipt or deposit of instruments or notifications of acceptance or approval, and termination notices with respect to treaties or other international agreements;

f. Prepares instructions to posts abroad and notes to foreign diplomatic missions at Washington respecting matters stated in paragraph e;

g. Takes all measures required for the transmission to the Congress of all international agreements other than treaties, as required by the Public Law 92–403 (see section 724), and the publica-

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tion and registration of treaties and other international agreements to which the United States is a party (see sections 725 and 750.3-3).

750.2 Engrossing Documents for Signature

After the text of a treaty or other agreement is approved in writing in accordance with section 722.7, the document is engrossed for signature in the Department.

Adequate time (normally 7 business days) is allowed for the engrossing (typing on treaty paper), comparing, etc., of the treaty or other agreement to be signed, in order to assure sufficient time for the preparation of accurate texts in duplicate for signature, including, in the case of documents to be signed in a foreign language, sufficient time for the Language Services Division to prepare any translations required, check any existing foreign-language draft, and check the engrossed foreign-language text. The determination of the amount of time required in each instance to complete the engrossing is the responsibility of the Assistant Legal Adviser for Treaty Affairs.

750.3 Publication and Registration

750.3-1 Publication of Texts

After the necessary action has been taken to bring into force the treaty or other international agreement concluded by the United States, it is published promptly in the Treaties and Other International Act Series issued by the Department. After publication in that series, the text of the treaty or other agreement is printed in the annual volume (which may consist of two or more bindings) of *United States Treaties and Other International Agreements,* as required by law (see section 725). Treaties and other agreements concluded prior to January 1, 1950, were published in the United States Statutes at Large.

750.3-2 Responsibility for Other Treaty Publications

The Office of the Assistant Legal Adviser for Treaty Affairs prepares and maintains the annual publication *Treaties in Force,* and authoritative guide to the text and status of treaties and other international agreements currently in force for the United States. It also compiles and has published, in addition to the text referred to in section 750.3-1, other volumes containing texts of treaties and other agreements as required or authorized by law. The "Treaty Information" part of the *Department of State Bulletin* is compiled by that office.

750.3-3 Registration

Article 102 of the United Nations Charter requires that every treaty and every international agreement entered into by a member of the United Nations be registered, as soon as possible, with the Secretariat and published by it. Article 83 of the Chicago Aviation Convention of 1944 requires registration of Aviation agreements with the Council of the International Civil Aviation Organization.

750.4 United States as Depositary

Inquiries from foreign diplomatic missions at Washington and from American diplomatic missions abroad with respect to the preparation or deposit of instruments relating to any multilateral agreement of which the United States is depositary are referred to the Assistant Legal Adviser for Treaty Affairs. That officer is to be notified immediately of the receipt of any such document anywhere in the Department, inasmuch as a depositary is required to ascertain whether those documents are properly executed before accepting them for deposit, to keep accurate records regarding them, and to inform other governments concerned of the order and date of receipt of such documents.

b. Before any arrangements are proposed or agreed to for the United States to serve as depositary for any international agreement, the views of the Assistant Legal Adviser for Treaty Affairs will be obtained.

750.5 Records and Correspondence Custody

a. The Assistant Legal Adviser for Treaty Affairs compiles and maintains authoritative records regarding the negotiation, signature, transmission to the Senate, and ratification or approval, as well as the existence, status, and application, of all international agreements to which the United States is or may become a party and, so far as information is available, of agreements between other countries to which the United States is not a party. Inquiries on these subjects are addressed to, and outgoing communications cleared with, the Office of the Legal Adviser.

b. To insure that the records regarding the matters described in this section are complete and up to date, it is important that all relevant papers be referred to the Office of the Legal Adviser.

c. The Assistant Legal Adviser for Treaty Affairs is responsible for the custody of originals of bilateral agreements and certified copies of multilateral agreements pending entry into force and completion of manuscripts for publication. Following publication, such originals and certified copies are transferred to the National Archives. The Assistant Legal Adviser for Treaty Affairs retains custody of signed originals of multilateral agreements for which the United States is depositary, together with relevant instruments of ratification, adherence, acceptance, or approval, as long as those agreements remains active.

2. Organization and Administration

a. Responsibilities of Chiefs of U.S. Diplomatic Missions

1. Executive Order No. 10893, Part II, November 8, 1960, reads as follows:

"PART II. COORDINATION AND SUPERVISION OF FUNCTIONS ABROAD

> "Section 201. *Functions of Chiefs of United States Diplomatic Missions.* The several Chiefs of the United States Diplomatic Missions in foreign countries, as the representatives of the President and acting on his behalf, shall have and exercise, to the extent permitted by law and in accordance with such instructions as the President may from time to time promulgate, affirmative responsibility for the coordination and supervision over the carrying out by agencies of their functions in the respective countries."

2. President Carter sent to each American Ambassador the following letter:

THE WHITE HOUSE,
Washington, October 25, 1977.

DEAR MR. AMBASSADOR:

Please accept my personal best wishes for success in your mission. As my personal representative, you will share with me and with the Secretary of State the responsibility for the conduct of our relations with .

I want to state clearly that, as Chief of the United States Diplomatic Mission to , and my representative, you have the strongest mandate possible. As PL 93-475 [the State Department Authorization for Fiscal Year 1975] states, you have "full responsibility for the direction, coordination, and supervision of all United States Government officers and employees" in your country of accreditation. This authority includes all United States Government programs and activities in that country. The only exceptions to this rule are personnel under the Chief of a United States Mission accredited to an international organization, personnel detailed to duty with international organizations, and, as stated in PL 93-475, "personnel under the command of a United States area military commander." I expect you to provide positive program direction, assuring that all United States Government activities under the authority of your Mission reflect and support current United States policy, are effectively coordinated, and are economically administered.

I expect the highest standards of professional and personal conduct by the personnel from all agencies assigned to our missions abroad. As my personal representative you have the authority and my full support in taking actions required to assure that these standards are maintained. All United States Government personnel in your country of assignment should be made aware of your authority and responsibilities. It is their duty to keep you thoroughly and currently informed about all their activities so you can effectively direct, coordinate and supervise United States programs and operations under your jurisdiction and recommend missionwide policies to Washington.

Without restricting their right to communicate on a timely basis with superiors in their own departments and agencies, you have the authority to review message traffic to and from all personnel under your jurisdiction.

Policy guidance and instructions will be sent to you from the Secretary of State or from me. I expect you to report with directness and candor. The Secretary of State has the responsibility not only for the activities of the Department of State and the Foreign Service but also, to the fullest extent permitted by law, for the overall direction, coordination and supervision of the United States Government activities overseas. There may be developments or decisions on which personnel under your authority disagree. The Secretary of State and I will always welcome the opportunity to consider your recommendations for alternative courses of action and policy proposals.

As Commander-in-Chief, I have authority over United States military forces. Apart from forces under the command of a U.S. area military commander and Department of Defense personnel seconded to international organizations, you shall assume responsibility for the direction, coordination and supervision of all Defense Department personnel within your country of accreditation. This includes, for example, responsibility for Defense Attache Offices, units engaged in security assistance and other military components attached to your Mission, as well as other activities by Defense personnel which may have an impact on the conduct of our diplomatic relations with the country of your assignment.

To carry out our national policies effectively, it is important that Chiefs of Diplomatic Mission and the concerned United States area military commanders as well as Chiefs of Mission accredited to international organizations, maintain close relations, keeping each other currently informed, and cooperating on all matters of mutual interest. You should report to the Secretary of State differences of view which cannot be resolved in the field.

Cutting the cost of government is of particular concern to me. The size of our representation abroad must be related to a stringent appraisal of policy and program requirements, and the number of personnel of all agencies must be kept at the minimum necessary to achieve our objectives. I consider this to be one of your most important goals. You should inform the Secretary of State when you believe that the staff of any agency or program is in excess of our needs. Routine implementing personnel actions remain the responsibility of the parent departments and agencies.

I have notified all heads of departments and agencies of the Government concerning the authority and responsibilities of the Chiefs of American Diplomatic Missions, and I have asked them to inform their personnel in the field accordingly.

You have my personal confidence as you undertake your mission. I am sure that you will represent our country with the skill, dedication and good will which your post demands.

Sincerely,

JIMMY CARTER.

b. Interdepartmental Operations of the U.S. Government Overseas

(1) The National Security Council System (Presidential Directive/NSC-2, January 20, 1977)

To: The Vice President;
The Secretary of State; and
The Secretary of Defense.
Also: The Secretary of the Treasury; The Attorney General; The United States Representative to the United Nations; The Director, Office of Management and Budget; The Assistant to the President for National Security Affairs; The Chairman, Council of Economic Advisers; The Administrator, Agency for International Development; The Director, Arms Control and Disarmament Agency; The Director, United States Information Agency; The Chairman, Joint Chiefs of Staff; The Director of Central Intelligence; and The Administrator, Energy Research and Development Administration.

Subject: The National Security Council System.

To assist me in carrying out my responsibilities for the conduct of national security affairs, I hereby direct the reorganization of the National Security Council system. The reorganization is intended to place more responsibility in the departments and agencies while insuring that the NSC, with my Assistant for National Security Affairs, continues to integrate and facilitate foreign and defense policy decisions.

a. The National Security Council (NSC)

The functions, membership, and responsibilities of the National Security Council shall be as set forth in the National Security Act of 1947, as amended. In addition, other senior officials, including the Secretary of the Treasury, the Attorney General, the United States Representative to the United Nations, the Director of the Office of Management and Budget, the Assistant to the President for National Security Affairs, the Chairman of the Council of Economic Advisers, the Director of the Arms Control and Disarmament Agency, the Chairman of the Joint Chiefs of Staff, the Director of Central Intelligence, and the Administrator of the Energy Research and Development Administration, shall attend appropriate NSC meetings.

The National Security Council shall be the principal forum for international security issues requiring Presidential consideration. The NSC shall assist me in analyzing, integrating and facilitating foreign, defense, and intelligence policy decisions. International economic and other interdependence issues which are pertinent to national security shall also be considered by the NSC.

The Council shall meet regularly. The Assistant to the President for National Security Affairs, at my direction and in consultation with the Secretaries of State and Defense and, when appropriate, the Secretary of the Treasury and the Chairman, Council of Economic Advisers, shall be responsible for determining the agenda and insuring that the necessary papers are prepared. Other members of the NSC may propose items for inclusion on the agenda. The Assistant to the President shall be assisted by a National Security Council staff, as provided by law.

b. NSC Policy Review Committee

An NSC Policy Review Committee is hereby established to develop national security policy for Presidential decisions in those cases where the basic responsibilities fall primarily within a given department but where the subject also has important implications for other departments and agencies. This Committee shall deal with such matters as:

—foreign policy issues that contain significant military or other interagency aspects;

—defense policy issues having international implications and the coordination of the annual Defense budget with foreign policy objectives;

—the preparation of a consolidated national intelligence budget and resource allocation for the Intelligence Community (thus assuming under the chairmanship of the Director of Central Intelligence the functions and responsibilities of the Committee on Foreign Intelligence); and

—those international economic issues pertinent to U.S. foreign policy and security, with staffing of the underlying economic issues through the Economic Policy Group.

I shall designate for each meeting the appropriate Chairman of the Policy Review Committee and attendance, depending on the subject matter being considered. Membership, in addition to the statutory members of the NSC and the Assistant for National Security Affairs, shall include, as appropriate, other senior officials.

c. The NSC Special Coordination Committee

A second NSC Committee, the Special Coordination Committee, is hereby established to deal with specific cross-cutting issues requiring coordination in the development of options and the implementation of Presidential decisions. The Committee shall deal with such matters as: the oversight of sensitive intelligence activities, such as covert operations, which are undertaken on Presidential authority; arms control evaluation; and it will assist me in crisis management.

The Special Coordination Committee shall be chaired by the Assistant for National Security Affairs. Membership shall include the statutory members of the NSC, or their representatives, and other senior officials, as appropriate.

d. NSC Interdepartmental Groups

Existing NSC Interdepartmental Groups, chaired by a designated senior departmental official, are to continue as needed under the direction of the NSC Policy Review Committee.

The membership of the Interdepartmental Groups shall include the agencies represented on the NSC Policy Review Committee. Depending on the issue under consideration, other agencies shall be represented at the discretion of the Policy Review Committee.

e. National Security Council Ad Hoc Groups

When appropriate, I intend to appoint NSC Ad Hoc Groups to deal with particular problems, including those which transcend departmental boundaries.

3. Passport Regulations

a. Regulations of the Secretary of State, Department Regulation 108.541, 22 CFR 50 through 53, October 20, 1966, 31 F.R. 13537, as amended

PART 50—NATIONALITY PROCEDURES

AUTHORITY: The provisions of this Part 50 issued under sec. 4, 63 Stat. 111, as amended, secs. 104, 360, 66 Stat. 174, 273; 22 U.S.C. 2658, 8 U.S.C. 1104, 1503.

§ 50.1 Definitions.

The following definitions shall be applicable to this part:

(a) "United States" means the continental United States, the State of Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, the Canal Zone, American Samoa, Guam and any other islands or territory over which the United States exercises jurisdiction.

(b) "Department" means the Department of State of the United States of America.

(c) "Secretary" means the Secretary of State.

(d) "National" means a citizen of the United States or a noncitizen owing permanent allegiance to the United States.

(e) "Passport" means a travel document issued under the authority of the Secretary of State attesting to the identity and nationality of the bearer.

(f) "Passport Agent" means a person designated by the Department to accept passport applications.

[Dept. Reg. 108.541, 31 F.R. 13537, Oct. 20, 1966, as amended at 31 F.R. 14521, Nov. 11, 1966]

Subpart A—Procedures for Determination of United States Nationality of a Person Abroad

§ 50.2 Determination of U.S. nationality of persons abroad.

The Department shall determine claims to United States nationality when made by persons abroad on the basis of an application for registration, for a passport, or for registration of birth.

§ 50.3 Application for registration.

(a) A person abroad who claims U.S. nationality, or a representative on his behalf, may apply at a consular post for registration to establish his claim to U.S. nationality or to make his residence in the particular consular area a matter of record.

(b) The applicant shall execute the registration form prescribed by the Department and shall submit the supporting evidence required by Subpart C of Part 51 of this chapter. The diplomatic or consular officer shall determine the period of time for which the registration will be valid.

§ 50.4 Application for passport.

A claim to U.S. nationality in connection with an application for passport shall be determined by posts abroad in accordance with the regulations contained in Part 51 of this chapter.

§ 50.5 Application for registration of birth abroad.

Upon application by the parents or their representative, a consular officer may record the birth of a U.S. citizen child in his consular district. The officer shall require the applicant to submit evidence meeting the requirements of Subpart C of Part 51 of this chapter and shall include:

(a) *Proof of child's birth.* Proof of child's birth usually consists of, but is not limited to, an authentic copy of the record of the birth filed with local authorities, a baptismal certificate, a military hospital certificate of birth, or an affidavit of the doctor or the person attending the birth. If no proof of birth is available, the person seeking to register the birth shall submit his affidavit explaining why such proof is not available and setting forth the facts relating to the birth.

(b) *Proof of child's citizenship.* Evidence of parent's citizenship and, if pertinent, evidence of parent's physical presence in the United States as required for transmittal of claim of citizenship by the Immigration and Nationality Act of 1952 shall be submitted.

§ 50.6 Registration at the Department of birth abroad.

In the time of war or national emergency, passport agents may be designated to complete consular reports of birth for children born at military facilities which are not under the jurisdiction of a consular office. An officer of the Armed Forces having authority to administer oaths may take applications for registration under this section.

§ 50.7 Report of birth.

(a) Upon submission of satisfactory proof of birth and nationality, and at the time of the recording of the birth, the consular officer shall issue to the parent or person in interest, when requested and upon payment of the prescribed fee, a consular report of birth. The Authentication Officer of the Department may issue additional copies of the report of birth.

(b) When it records a birth under § 50.6, the Department shall furnish a copy of the "Report of Birth" without fee to the parent or person in interest.

§ 50.8 Certification of birth.

(a) At the time of registration of birth, the consular officer shall furnish without fee to the parent or person in interest a certification entitled "Certification of Birth."

(b) At any time subsequent to the registration of birth, when requested and upon payment of the required fee, the Authentication Officer of the Department of State shall issue to the parent or person in interest a "Certification of Birth."

§ 50.9 Card of identity and registration.

When authorized by the Department, a consular officer may issue a card of identity and registration for travel to the United States to a national of the United States being deported from a foreign country, to nationals involved in a common disaster abroad, or to a returning national whose passport facilities have been denied or withdrawn under the provisions of this Part 50 or Part 51 or 53 of this subchapter.

[Dept. of Reg. 108.541, 31 F.R. 13537, October 20, 1966, as amended by Dept. Reg. 108.665, 37 F.R. 11459, June 8, 1972]

§ 50.10 Certificate of nationality.

(a) Any person who acquired the nationality of the United States at birth and who is involved in any judicial or administrative proceedings in a foreign state and needs to establish his U.S. nationality may apply for a certificate of nationality in the form prescribed by the Department.

(b) An applicant for a certificate of nationality must submit evidence of his nationality and documentary evidence establishing that he is involved in judicial or administrative proceedings in which proof of his U.S. nationality is required.

§ 50.11 Certificate of identity for travel to the United States to apply for admission.

(a) A person applying abroad for a certificate of identity under section 360(b) of the Immigration and Nationality Act shall complete the application form prescribed by the Department and submit evidence to support his claim to U.S. nationality.

(b) When a diplomatic or consular officer denies an application for a certificate of identity under this section, the applicant may submit a written appeal to the Secretary, stating the pertinent facts, the grounds upon which U.S. nationality is claimed and his reasons for considering that the denial was not justified.

[Dept. of Reg. 108.541, 31 F.R. 13537, October 20, 1966, as amended at 31 F.R. 14521, November 11, 1966]

Subpart B—Retention and Resumption of Nationality

§ 50.20 Retention of nationality.

(a) *Section 350 of the Immigration and Nationality Act.* A person who desires to retain his U.S. nationality under the provisions of section 350 of the Immigration and Nationality Act may satisfy the requirement of section 350(1) by taking an oath of allegiance, within the time period specified in the statute, in connection with an application for a passport or for registration as a United States national.

(b) *Section 351(b) of the Immigration and Nationality Act.* (1) A person who desires to claim U.S. nationality under the provisions of section 351(b) of the Immigration and Nationality Act must, within the time period specified in the statute, assert his claim to U.S. nationality and subscribe to an oath of allegiance before a diplomatic or consular officer.

(2) In addition, the person shall submit to the Department a statement reciting his identity and acquisition or derivation of U.S. nationality, the facts pertaining to the performance of any act which would otherwise have been expatriative, and his desire to retain his U.S. nationality.

§ 50.30 Resumption of nationality.

(a) *Section 324(c) of the Immigration and Nationality Act.* (1) A woman formerly a citizen of the United States at birth who wishes to regain her citizenship under section 324(c) of the Immigration and Nationality Act may apply abroad to a diplomatic or consular officer on the form prescribed by the Department to take the oath of allegiance prescribed by section 337 of that Act.

(2) The applicant shall submit documentary evidence to establish her eligibility to take the oath of allegiance. If the diplomatic or consular officer or the Department determines, when the application is submitted to the Department for decision, that the applicant is ineligible for resumption of citizenship because of section 313 of the Immigration and Nationality Act, the oath shall not be administered.

(b) *The Act of June 25, 1936.* (1) A woman who has been restored to citizenship by the Act of June 25, 1936, as amended by the Act of July 2, 1940, but who failed to take the oath of allegiance prior to December 24, 1952, as prescribed by the nationality laws, may apply abroad to any diplomatic or consular officer to take the oath of allegiance as prescribed by section 337 of the Immigration and Nationality Act.

(2) The applicant shall submit documentary evidence to establish her eligibility to take the oath of allegiance. If the diplomatic or consular officer or the Department determines, when the application is submitted to the Department, that the applicant is ineligible for resumption of citizenship under section 313 of the Immigration and Nationality Act, the oath shall not be administered.

(c) *Certification of repatriation.* Upon request and payment of the prescribed fee, a diplomatic or consular officer or the Department shall issue a certified copy of the application and oath administered to a woman repatriated under this section.

Subpart C—Loss of Nationality

§ 50.40 Revocation of naturalization under section 340(d).

(a) Whenever a diplomatic or consular officer determines that an individual, within 5 years of the date upon which he was naturalized, has established permanent residence abroad, and has failed to overcome the presumption set forth in section 340(d) of the Immigration and Nationality Act, the officer shall prepare and forward to the Department an affidavit setting forth his findings. Before forwarding the affidavit to the Department, the diplomatic or consular officer shall give written notice to the person affected of his contemplated action and afford the person a reasonable opportunity to present countervailing evidence.

(b) If the Department agrees that the provisions of section 340(d) of the Immigration and Nationality Act are applicable, it shall forward an authenticated copy of the consular officer's affidavit, and other relevant evidence to the Department of Justice for appropriate action.

§ 50.41 Certification of loss of U.S. nationality.

(a) Whenever a diplomatic or consular officer has reason to believe, that a person, while in a foreign country, has lost [illegible] U.S. nationality under any provision of Chapter 3 of Title III of the Immigration and Nationality Act of 1952, or under any provision of Chapter IV of the Nationality Act of 1940, as amended, he shall prepare a certificate of loss of nationality containing the facts upon which such belief is based and shall forward the certificate to the Department.

(b) If the diplomatic or consular officer determines that any document containing information relevant to the statements in the certificate of loss of nationality should not be attached to the certificate, he may summarize the pertinent information in the appropriate section of the certificate and send the documents together with the certificate to the Department.

(c) Whenever a person admits that he has expatriated himself by the voluntary performance of one of the acts of fulfillment of one of the conditions specified in Chapter 3, Title III of the Immigration and Nationality Act of 1952 or section 401 of the Nationality Act of 1940, and consents to the execution of an affidavit to that effect, the diplomatic or consular officer shall recite in or attach to the certificate the person's affidavit.

(d) If the certificate of loss of nationality is approved by the Department, a copy shall be forwarded to the Immigration and Naturalization Service, Department of Justice. The diplomatic or consular office in which the certificate was prepared shall then forward a copy of the certificate to the person to whom it relates or his representatives.

§ 50.42 Determination of loss of nationality abroad in connection with application for passport in the United States.

The Department shall determine that a person in the United States has lost his U.S. citizenship while abroad only in connection with an application for a passport.

§ 50.50 Renunciation of nationality.

(a) A person desiring to renounce his U.S. nationality under section 349(a)(6) of the Immigration and Nationality Act shall appear before a diplomatic or consular officer of the United States and take an oath of renunciation of nationality of the United States in the manner and form prescribed by the Department. The renunciant must include on the form he signs a statement that he absolutely and entirely renounces his U.S. nationality together with all rights and privileges and all duties of allegiance and fidelity thereunto pertaining.

(b) The diplomatic or consular officer shall forward to the Department for approval the oath of renunciation together with a certificate of loss of nationality as provided by section 358 of the Immigration and Nationality Act. If the officer's report is approved by the Department, copies of the certificate shall be forwarded to the

Immigration and Naturalization Service, Department of Justice, and to the person to whom it relates or his representative.

§ 50.51 Certification of expatriation.

The procedures under this part shall also apply to the preparation, approval or disapproval of certificates of expatriation. Where loss of nationality occurs under provisions of law other than those specified in section 358 of the Immigration and Nationality Act of 1952, the diplomatic or consular officer shall prepare a certificate of expatriation instead of a certificate of loss of nationality.

§ 50.52 Notice of right to appeal.

When an approved certificate of loss of nationality or certificate of expatriation is forwarded to the person to whom it relates or his or her representative, such person or representative shall be informed of the right to appeal the Department's determination to the Board of Appellate Review (Part 7 of this Chapter) within one year after approval of the certificate of loss of nationality or the certificate of expatriation.

[Added 44, F.R. 68827, Nov. 30, 1979]

PART 51—PASSPORTS

AUTHORITY: The provisions of this Part 51 issued under sec. 1, 44 Stat. 887, sec. 4, 63 Stat. 111, as amended; 22 U.S.C. 211a, 2658, E.O. 11295, 36 F.R. 10603; 3 CFR, 1966–1970 Comp., page 507.

§ 51.1 Definitions.

The following definitions shall be applicable to this part:

(a) "United States" means the continental United States, the State of Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, the Canal Zone, American Samoa, Guam and any other islands or territory over which the United States exercises jurisdiction.

(b) "Department" means the Department of State of the United States of America.

(c) "Secretary" means the Secretary of State.

(d) "National" means a citizen of the United States or a noncitizen owing permanent allegiance to the United States.

(e) "Passport" means a travel document issued under the authority of the Secretary of State attesting to the identity and nationality of the bearer.

(f) "Passport Agent" means a person designated by the Department to accept passport applications.

(g) "Passport Issuing Office" means the Passport Office, a Passport Agency, a Passport Agent of the Department, or a Foreign Service Post authorized to issue passports.

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966, as amended at 31 F.R. 14522, Nov. 11, 1966]

Subpart A—General

§ 51.2 Passport issued to nationals only.

(a) A United States passport shall be issued only to a national of the United States (22 U.S.C. 212).

(b) Unless authorized by the Department no person shall bear more than one valid or potentially valid U.S. passport at any one time.

[SD-165, 46 FR 2343, Jan. 9, 1981]

§ 51.3 Types of passports.

(a) *Regular passport.* A regular passport is issued to a national of the United States proceeding abroad for personal or business reasons.

(b) *Official passport.* An official passport is issued to an official or employee of the U.S. Government proceeding abroad in the discharge of official duties. Where appropriate, dependents of such persons may be issued official passports.

(c) *Diplomatic passport.* A diplomatic passport is issued to a Foreign Service Officer, a person in the diplomatic service or to a person having diplomatic status either because of the nature of his or her foreign mission or by reason of the office he or she holds. Where appropriate, dependents of such persons may be issued diplomatic passports.

(22 U.S.C 2658 and 3926)

[Dept. Reg. 108.541, 31 FR 13540, Oct. 20, 1966, as amended by Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

§ 51.4 Validity of passports.

(a) *Signature of bearer.* A passport is valid only when signed by the bearer in the space designated for his signature.

(b) *Period of validity of a regular passport.* A regular passport issued on or after January 1, 1983 to an applicant 18 years of age or older is valid for 10 years from date of issue unless limited by the Secretary to a shorter period. A regular passport issued on or after January 1, 1983 to an applicant under the age of 18 years is valid for 5 years from date of issue unless limited by the Secretary to a shorter period. An outstanding passport issued before January 1, 1983 remains valid for 5 years from date of issue unless limited by the Secretary to a shorter period.

(c) *Period of validity of an official passport.* An official passport is normally valid for a period of 5 years from the date of issue as long as the bearer maintains the official status for which it is issued. It must be returned to the Department upon the termination of the bearer's official status.

(d) *Period of validity of a diplomatic passport.* A diplomatic passport issued on or after January 1, 1977 is valid for a period of five (5) years or so long as the bearer maintains his/her diplomatic status, whichever is shorter. A diplomatic passport which has not expired must be returned to the Department upon the termination of the bearer's diplomatic status or at such other time as the Secretary shall determine. Any outstanding diplomatic passport issued before January 1, 1977 will expire effective December 31, 1977.

(e) *Period of a regular passport issued for no fee.* A regular passport for which payment of the fee has been excused is valid for a period of 5 years from the date of issue unless limited by the Secretary to a shorter period.

(f) *Limitation and extension of validity.* The validity period of any passport may be limited by the Secretary to less than the normal validity period. Applications for extension of passports limited to less than the normal full validity period must be made in writing and must be submitted, with the passport, to a passport issuing Office. In no event may a passport be extended beyond the normal period of validity prescribed for such passport by paragraphs (b) through (e) of this section.

(Sec. 1, 44 Stat. 887; sec. 1, 41 Stat. 750; sec. 2, 44 Stat. 887; sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 214, 217a, 2658); E.O. 11295, 36 FR 10603; 3 CFR 1966–70 Comp. p. 507)

[Dept. Reg. 108.541, 31 FR 13540, Oct. 20, 1966, as amended by Dept. Reg. 108.594, 33 FR 12042, Aug. 24, 1968; Dept. Reg. 108.734, 42 FR 17869, Apr. 4, 1977; Dept. Reg. 108.828, 47 FR 56329, Dec. 16, 1982]

§ 51.6 Mutilation and alteration of passports.

Any passport which has been materially changed in physical appearance or composition, or which includes unauthorized changes, obliterations, entries or photographs may be invalidated.

§ 51.7 Verification of passports.

When required by the officials of a foreign government, an American Foreign Service office may verify a U.S. passport at the request of the bearer or of the foreign government.

§ 51.8 Cancellation of previously issued passport.

(a) Upon applying for a new passport, an applicant shall submit for cancellation any previous passport still valid or potentially valid.

(b) If an applicant is unable to produce such a passport for cancellation, he or she shall submit a signed statement setting forth the circumstances surrounding the disposition of the passport and if it is claimed to have been lost, the efforts made to recover it. A determination will then be made whether to issue a new passport and whether such passport shall be limited as to place and periods of validity.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 FR 13540, Oct. 20, 1966, as amended at 31 FR 14521, Nov. 11, 1966; Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

§ 51.9 Passport property of the U.S. Government.

A passport shall at all times remain the property of the United States and shall be returned to the Government upon demand.

Subpart B—Application

§ 51.20 General.

An application for a passport or for an amendment of a passport shall be completed upon such forms as may be prescribed by the Department. The passport applicant shall truthfully answer all questions, and shall state each and every material matter of fact, pertaining to his or her eligibility for a passport. All information and evidence submitted in connection with an application shall be considered a part thereof.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.594, 33 FR 12043, Aug. 24, 1968, as amended by Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

§ 51.21 Execution of passport application.

(a) *First-time applicants or persons who have not been issued a passport within 8 years of the date of a new application.* A person who has never been issued a passport in his or her own name, or who has not been issued a passport in his or her own name within 8 years of the date of a new application, shall appear in person, verify the application by oath or affirmation before a person authorized by the Secretary to give oaths, and pay the established fees.

(b) *Persons authorized by the Secretary to give oaths.* The following persons are authorized by the Secretary to give oaths for passport purposes:

(1) A passport agent;

(2) A clerk of any Federal court;

(3) A clerk of any State court of record or a judge or clerk of any probate court;

(4) A postal employee designated by the postmaster at a post office which has been selected to accept passport applications;

(5) A diplomatic or consular officer abroad; or

(6) Any other persons specifically designated by the Secretary.

(c) *Persons in the United States who have been issued a passport within 8 years of the date of a new application.* A person in the United States who has been issued a passport in his or her own name within 8 years of the date of a new application may obtain a new passport by filling out and mailing a specially prescribed application together with his or her previous passport, two signed recent photographs and the established fee to the nearest U.S. Passport Agency or to the Passport Office in Washington, D.C., provided:

(1) The previous passport was issued when the applicant was 18 years of age or older; and

(2) The previous passport is submitted with the new application.

If the applicant is unable to meet any of the requirements of paragraph (c) he or she must follow the procedures set forth in paragraph (a) of this section.

(d) *Persons outside of the United States who have been issued a passport within 8 years of the date of the application.* In a foreign country in which a U.S. consular district has been designated by the Secretary to receive such passport applications, a person who has been issued a passport in his or her own name within 8 years of the date of the new application may obtain a new passport by filling out a specially prescribed application and sending it (by mail or another person as prescribed by the Secretary), together with his or or her previous passport, two signed recent photographs and the established fee to the consular office in the consular district in which he or she is present (if that consular district is designated for this purpose by the Secretary), provided he or she meets the following requirements:

(1) The previous passport must have been issued when the applicant was 18 years of age or older; and

(2) The previous passport must be submitted with the new application.

If the applicant is unable to meet the above requirements he or she must follow the procedures set forth in paragraph (a) of this section.

[44 FR 19393, Apr. 3, 1979, as amended by SD-165, 46 FR 2343, Jan. 9, 1981; Dept. Reg. 108.804, 46 FR 16257, Mar. 12, 1981]

§ 51.23 Name of applicant to be used in passport.

The passport application shall contain the full name of the applicant. The applicant shall explain any material discrepancies between the name to be placed in the passport and the name recited in the evidence to citizenship and identity submitted. The passport issuing office may require documentary evidence or affidavits of persons having knowledge of the facts to support the explanation of the discrepancies.

[SD-165, 46 FR 2343, Jan. 9, 1981]

§ 51.24 Change of name.

An applicant whose name has been changed by court order or decree shall submit with his or her application a certified copy of the order or decree. An applicant who has changed his or her name by the adoption of a new name without formal court proceedings shall submit with his or her application evidence that he or she has publicly and exclusively used the adopted name over a long period of time.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 FR 13540, Oct. 20, 1966, as amended by Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

§ 51.25 Photographs.

(a) *Photographs of bearer.* The applicant shall submit with his or her application duplicate photographs of the size specified in the application. The photographs should be sufficiently recent to be a good likeness of and satisfactorily identify the applicant. The photographs shall be signed in the same manner and form as required in the application.

(b) *Photographs of uniformed personnel.* Only applicants who are in the active service of the Armed Forces and proceeding abroad in the discharge of their duties may submit photographs in the uniform of the Armed Forces of the United States.

(c) *Unacceptable photographs.* A photograph with a waxed back or other coating which lessens adhesiveness is not acceptable. Newspaper or magazine pictures, snapshots, or full length photographs are not acceptable. Photographs of persons in the uniform of a civilian organization, except religious dress, will not generally be accepted.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 FR 13540, Oct. 20, 1966, as amended by Dept. Reg. 108.751, 43 FR 1791, Jan. 12, 1978; 44 FR 19394, Apr. 3, 1979; SD-165, 46 FR 2343, Jan. 9, 1981; Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

§ 51.26 Incompetents.

A parent, a legal guardian, or a person in loco parentis shall execute a passport application on behalf of a person declared incompetent.

§ 51.27 Minors.

(a) *Definitions.* A minor is an unmarried person under the age of 18 years.

(b) *Execution of application by minors.* A minor of age 13 years or above shall execute an application on his or her own behalf unless in the judgment of the person before whom the application is executed it is not desirable for the minor to execute his or her own application. In such case it must be executed by a parent or guardian of the minor, or by a person in loco parentis. A parent, guardian or person in loco parentis shall execute the application for minors under the age of 13 years. The passport issuing office may require a minor under the age of 18 years to obtain and submit the written consent of a parent, a legal guardian or a person in loco parentis to the issuance of the passport.

(c) *Objection by parent or guardian in cases not involving the custody of the minor.* At any time prior to the issuance of a passport to a minor and upon receipt of a written objection from a person having legal control of the minor, the passport issuing office may disapprove the minor's application.

(d) *Objection by parent or guardian in cases involving the custody of a minor.* When there is controversy concerning the custody of a minor, the passport issuing office may deny issuance of a passport to the minor if it receives a court order from a court within the country in which passport services are sought. The court order must give custody of the minor to the objecting parent, legal guardian or person in loco parentis or must forbid the child's departure from the country in which passport services are sought without the permission of the court.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 FR 13540, Oct. 20, 1966, as amended by Dept. Reg. 108.751, 43 FR 1791, Jan. 12, 1978; Dept. Reg. 108.779, 44 FR 41777, July 18, 1979; Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

§ 51.28 Identity of applicant.

(a) If the applicant is not personally known to the official receiving the application he or she shall establish his or her identity by the submission of a previous passport, other identifying documents or by an identifying witness.

(b) If an applicant submits an application under the provisions of paragraph (c) of § 51.21 he or she must submit a prior passport with his or her application.

(c) Any official receiving an application for a passport or any Passport Issuing Office may require such additional evidence of identity as may be deemed necessary.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.594, 33 FR 12043, Aug. 24, 1968, as amended by SD-165, 46 FR 2343, Jan. 9, 1981; Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

§ 51.30 Persons unacceptable as witnesses.

The passport issuing office will not accept as witness to a passport application a person who has received or expects to receive a fee for his services in connection with executing the application or obtaining the passport.

§ 51.31 Affidavit of identifying witness.

(a) An identifying witness shall execute an affidavit stating: That he or she resides at a specific address; that he or she knows or has reason to believe that the applicant is a citizen of the United States; the basis of his or her knowledge concerning the applicant; and that the information set out in his or her affidavit is true to the best of his or her knowledge and belief.

(b) If the witness has a U.S. passport, he or she shall state the place of issue and, if possible, the number and approximate date of issue.

(c) The identifying witness shall subscribe to his or her statement before the same person who took the passport application.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 FR 13540, Oct. 20, 1966, as amended at 31 FR 14522, Nov. 11, 1966; Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

§ 51.32 Amendment of passports.

Applicants for amendment of a passport shall be made on forms prescribed by the Department.

[SD-165, 46 FR 2343, Jan. 9, 1981]

§ 51.33 Release of passport information.

Information in passport files is privileged and shall not be released except:

(a) At the request of an applicant or a person acting in his or her behalf for copies of documents executed or submitted by the applicant.

(b) Pursuant to a subpoena or court order directing the production of passport records.

(c) At the request of another Government agency.

(d) When expressly authorized by the Secretary.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 FR 13540, Oct. 20, 1966, as amended by Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

Subpart C—Evidence of U.S. Citizenship or Nationality

§ 51.40 Burden of proof.

The applicant has the burden of proving that he or she and any persons to be included in the passport are nationals of the United States.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 FR 13540, Oct. 20, 1966, as amended by Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

§ 51.41 Documentary evidence.

Every application shall be accompanied by evidence of the U.S. nationality of the applicant and of any other person to be extended passport services.

§ 51.43 Persons born in the United States applying for a passport for the first time.

(a) *Primary evidence of birth in the United States.* A person born in the United States in a place where official records of birth were kept at the time of his or her birth shall submit with the application for a passport a birth certificate under the seal of the official custodian of birth records. To be acceptable, a certificate must show the full name of the applicant's place and date of birth, and that the record thereof was recorded at the time of birth or shortly thereafter.

(b) *Secondary evidence of birth in the United States.* If the applicant cannot submit primary evidence of birth, he or she shall submit the best obtainable secondary evidence. If a person was born at a place in the United States when birth records were filed, he or she must submit a "no record" certification from the official custodian of such birth records before secondary evidence may be considered. The passport issuing office will consider, as secondary evidence, baptismal certificates, certificates of circumcision, or other documentary evidence created shortly after birth but not more than 5 years after birth, and/or affidavits of persons having personal knowledge of the facts of the birth.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.685, 38 FR 4667, Feb. 20, 1973, as amended by Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

§ 51.44 Persons born abroad applying for a passport for the first time.

(a) *Naturalization in own right.* A person naturalized in his or her own right as a U.S. citizen shall submit with his or her application his or her certificate of naturalization.

(b) *Derivative citizenship at birth.* (1) An applicant who claims to have derived citizenship by virtue of his or her birth abroad to a U.S. citizen parent or parents may submit his or her own certificate of citizenship (Section 1993, Revised Statutes, as amended by Act of May 24, 1934; section 201 of the Nationality Act of 1940; section 301 of the Immigration and Nationality Act of 1952).

(2) In lieu of a certificate of citizenship, the applicant may submit evidence of his or her parent(s)' citizenship at the time of his or her birth, and evidence of his or her and his or her parent(s)' residence and physical presence in the United States. The passport issuing office may require the applicant to establish the marriage of his or her parents and/or grandparents and his or her relationship to them.

(c) *Derivative citizenship subsequent to birth.* (1) An applicant who claims U.S. citizenship by virtue of the naturalization of his or her parent or parents subsequent to his or her birth may submit his or her own certificate of citizenship.

(2) In lieu of a certificate of citizenship the applicant may submit the naturalization certificate of the parent or parents through whom he or she claims U.S. citizenship. In this case, he or she must also show that he or she resided in the United States during minority as required by the law under which he or she claims citizenship.

(3) If an applicant claims citizenship through a mother who resumed citizenship or parent who was repatriated, he or she must submit evidence thereof. The applicant must establish also that he or she resided in the United States for the period prescribed by law.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 FR 13540, Oct. 20, 1966, as amended by Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

MARRIED WOMEN

§ 51.45 Marriage to an alien prior to March 2, 1907.

A woman citizen of the United States who married an alien prior to March 2, 1907, did not lose her U.S. citizenship unless she acquired as a result of the marriage the nationality of her husband and thereafter took up a permanent residence abroad prior to September 22, 1922.

§ 51.46 Marriage to an alien prior to March 2, 1907, and September 22, 1922.

(a) A woman citizen of the United States who married an alien between March 2, 1907, and September 22, 1922, lost her U.S. citizenship, except as provided in paragraph (b) of this section. At the termination of the marital relation she could resume her U.S. citizenship, if abroad, by registering as a U.S. citizen within 1 year with a Consul of the United States, or by returning to reside in the United States, or, if resident in the United States, by continuing to reside therein. (Section 3 of the Act of March 2, 1907.)

(b) A woman citizen of the United States who married an alien between April 6, 1917, and July 2, 1921, did not lose her citizenship, if the marriage terminated by death or divorce prior to July 2, 1921, or if her husband became a U.S. citizen prior to that date. She may establish her citizenship by proving her U.S. citizenship prior to marriage and the termination of the marriage or acquisition of U.S. citizenship by her husband prior to July 2, 1921.

§ 51.47 Marriage prior to September 22, 1922, to an alien who acquired U.S. citizenship by naturalization prior to September 22, 1922.

A woman citizen of the United States who lost her citizenship by virtue of her marriage to an alien between March 2, 1907, and September 22, 1922, and who reacquired U.S. citizenship through the naturalization of her husband prior to September 22, 1922, may establish her U.S. citizenship by submitting her husband's certificate of naturalization.

§ 51.48 Marriage between September 22, 1922, and March 3, 1931, to an alien ineligible to citizenship.

A woman citizen of the United States who lost her U.S. citizenship by virtue of her marriage to an alien ineligible to citizenship between September 22, 1922, and March 3, 1931, but who reacquired her citizenship by naturalization in accordance with applicable law shall submit with her application her certificate of naturalization (sec. 3 of the Act of Mar. 3, 1931).

§ 51.49 Marriage on or after September 22, 1922, to an alien eligible to naturalization.

A woman citizen of the United States who on or after September 22, 1922, married an alien eligible for naturalization did not thereby lose her U.S. citizenship and need only submit evidence of her own citizenship before a passport issuing office.

§ 51.50 Alien born woman—marriage to citizen prior to September 22, 1922.

An alien woman who acquired U.S. citizenship by virtue of her marriage to a citizen of the United States prior to September 22, 1922, shall submit with her application evidence of her husband's citizenship and of the marriage. (Section 1994 of the Revised Statutes.)

CITIZENSHIP BY ACT OF CONGRESS OR TREATY

§ 51.51 Former nationals of Spain or Denmark.

Former nationals of Spain or Denmark who acquired nationality or citizenship of the United States under an act of Congress or treaty by virtue of residence in territory under the sovereignty of the United States shall submit evidence of their former nationality and of their residence in such territory.

§ 51.52 Citizenship by birth in territory under sovereignty of the United States.

A person claiming nationality or citizenship of the United States under an act of Congress or treaty by virtue of his or her birth in territory under the sovereignty of the United States shall submit evidence of his birth in such territory.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 FR 13540, Oct. 20, 1966, as amended by Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

§ 51.53 Proof of resumption of U.S. citizenship.

An applicant who claims that he or she resumed U.S citizenship or was repatriated under any of the nationality laws of the United States shall submit with the application a certificate of naturalization, a certificate of repatriation or evidence of the fact that he or she took an oath of allegiance in accordance with the applicable provisions of the law. (Act of June 29, 1906, as amended by Act of May 9, 1918; Act of June 25, 1936, as amended by Act of July 2, 1940, sections 317(b) and 323 of the Nationality Act of 1940 as amended by Acts of April 2, 1942, and August 7, 1946; Act of August 16, 1951, as amended by section 402(j) of the Immigration and Nationality Act of 1952; sections 324 and 327 of the Immigration and Nationality Act of 1952; Act of July 20, 1954).

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 FR 13540, Oct. 20, 1966, as amended by Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

§ 51.54 Requirement of additional evidence of U.S. citizenship.

Nothing contained in §§ 51.43 through 51.53 shall prohibit the Department from requiring an applicant to submit other evidence deemed necessary to establish his or her U.S. citizenship or nationality.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 FR 13540, Oct. 20, 1966, as amended by Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

§ 51.55 Return or retention of evidence of citizenship.

The passport issuing office will generally return to the applicant submitted in connection with an application for passport facilities. However, the passport issuing office may retain evidence when it deems necessary.

Subpart D—Fees

§ 51.60 Form of remittance.

Passport fees in the United States shall be paid in U.S. currency or by draft, check, or money order payable to the Department of State or the Passport Office. Passport fees abroad shall be paid in U.S. currency, travelers checks, money order, or the equivalent value of the fees in local currency.

[31 FR 14522, Nov. 11, 1966]

§ 51.61 Statutory fees.

(a) *Passport fee.* The fee for a U.S. passport is (1) $35.00 when the passport issued will be valid or potentially valid for a period of 10 years from date of issue; or (2) $20.00 when the passport issued will be valid or potentially valid for a period of 5 years from date of issue; and (3) the passport fee shall be paid by all applicants except as provided by § 51.63(a).

(b) *Execution fee.* Except as provided in § 51.63(b), the fee for execution of an application for a U.S. passport is $7.00, which shall be remitted to the U.S. Treasury when an application is executed before a Federal official, but which may be collected and retained by any State official before whom an application is executed. The execution fee shall be paid only when an application must be executed under oath or affirmation as prescribed by § 51.21(a).

(Sec. 1, 44 Stat. 887; sec. 1, 41 Stat. 750; sec. 2, 44 Stat. 887; sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 214, 217a, 2658); E.O. 11295, 36 FR 10603; 3 CFR 1966–70 Comp. p. 507)

[Dept. Reg. 108.828, 47 FR 56329, Dec. 16, 1982]

§ 51.62 Regulatory fees.

The Secretary may authorize the collection of additional fees in connection with passport services. Upon publication of the fees in the FEDERAL REGISTER, the passport issuing office may collect them in the same manner as statutory fees.

§ 51.63 Exemption from payment of passport or execution fee.

(a) The following persons are exempt from the payment of passport fees:

(1) An officer or employee of the U.S. proceeding abroad on official business, or the members of his or her immediate family authorized to accompany or reside with him or her abroad. The applicant shall submit evidence of the official purpose of his or her travel and if applicable his or her authorization to have dependents accompany or reside with him or her abroad.

(2) An American sailor who requires a passport in connection with his or her duties aboard an American flag-vessel.

(3) A widow, child, parent, brother, or a sister of a deceased American service member proceeding abroad to visit the grave of such service member.

(4) An employee of the United Seamen's Service who requires a passport for travel to assume or perform duties thereof. The applicant shall submit with his or her application a letter from the United Seaman's Service certifying that he or she is proceeding abroad on official business to provide facilities and services for US. merchant seamen.

(b) No person described in paragraph (a)(1), (2), (3), or (4) of this section shall be required to pay an execution fee when his or her application is executed before a Federal official.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.594, 33 FR 12043, Aug. 24, 1968, as amended by Dept. Reg. 108.656, 37 FR 6053, Mar. 24, 1972; Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

§ 51.64 Refunds.

A collected passport fee shall be refunded:

(a) To any person exempt from the payment of passport fees under § 51.63 from whom fees were erroneously collected.

(b) To any person refused a visa within the United States by the government officer of a foreign government, provided that the unused passport is returned and a written request for a refund is made within 6 months of the date of issue of the passport.

(c) To any applicant whose passport is not issued.

(d) To the executor or administrator of the estate of the deceased bearer of an unused passport.

[Dept. Reg. 108.594, 33 FR 12043, Aug. 24, 1968]

§ 51.65 Replacement passports.

A passport issuing office shall issue a replacement passport without payment of a fee:

(a) To correct an error or rectify a mistake of the Department.

(b) When exceptional circumstances exist as determined by the Secretary.

§ 51.66 Execution fee not refundable.

The fee for the execution of a passport application cannot be refunded.

Subpart E—Limitation on Issuance or Extension of Passports

§ 51.70 Denial of passports.

(a) A passport, except for direct return to the United States, shall not be issued in any case in which:

(1) The applicant is the subject of an outstanding Federal warrant of arrest for a felony, including a warrant issued under the Federal Fugitive Felon Act (18 U.S.C. 1073); or

(2) The applicant is subject to a criminal court order, condition of probation, or condition of parole, any of which forbids departure from the United States and the violation of which could result in the issuance of a Federal warrant of arrest, including a warrant issued under the Federal Fugitive Felon Act; or

(3) The applicant is subject to a court order committing him or her to a mental institution.

(4) The applicant is the subject of a request for extradition or provisional arrest for extradition which has been presented to the government of a foreign country.

(5) The applicant is the subject of a subpoena issued pursuant to section 1783 of Title 28, United States Code, in a matter involving Federal prosecution for, or grand jury investigation of, a felony.

(6) The applicant has not repaid a loan received from the United States as prescribed under § 71.10 and § 71.11 of this chapter.

(7) The applicant is in default on a loan received from the United States to effectuate his or her return from a foreign country in the course of travel abroad.

(b) A passport may be refused in any case in which:

(1) The applicant has not repaid a loan received from the United States to effectuate his or her return from a foreign country in the course of travel abroad; or

(2) The applicant has been legally declared incompetent unless accompanied on his or her travel abroad by the guardian or other person responsible for the national's custody and well-being; or

(3) The applicant is under the age of 18 years, unmarried and not in the military service of the United States unless a person having legal custody of such national authorizes issuance of the passport and agrees to reimburse the United States for any monies advanced by the United States for the minor to return to the United States.

(4) The Secretary determines that the national's activities abroad are causing or are likely to cause serious damage to the national security or the foreign policy of the United States; or

(5) The applicant has been the subject of a prior adverse action under this section or § 51.71 and has not shown that a change in circumstances since the adverse action warrants issuance of a passport; or

(6) The applicant is subject to an order of restraint or apprehension issued by an appropriate officer of the Armed Forces of the United States pursuant to Chapter 47 of Title 10 the United States Code.

(22 U.S.C. 2658 and 3926; sec. 1, 44 Stat. 887; sec. 1, 41 Stat. 750; sec. 4, 63 Stat. 111, as amended; 22 U.S.C. 211a, as amended, 2658; sec. 122(d)(3), Pub. L. 98–164, 97 Stat. 1017; E.O. 11295, 36 FR 10603; 3 CFR 1966–70 Comp. page 507)

[Dept. Reg. 108.583, 33 FR 5681, Apr. 12, 1968, as amended by Dept. Reg. 108.590, 33 FR 10281, July 18, 1968; Dept. Reg. 108.594, 33 FR 12043, Aug. 24, 1968; Dept. Reg. 108.634, 36 FR 4870, Mar. 13, 1971; Dept. Reg. 108.700, 39 FR 18766, May 30, 1974; Dept. Reg. 108.748, 42 FR 60141, Nov. 25, 1977; Dept. Reg. 108.779, 44 FR 41777, July 18, 1979; SD–168, 46 FR 8468, Jan. 27, 1981; Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984; Dept. Reg. 108.839, 49 FR 40403, Oct. 16, 1984]

§ 51.71 Revocation or restriction of passports.

A passport may be revoked restricted or limited where:

(a) The national would not be entitled to issuance of a new passport under § 51.70; or

(b) The passport has been obtained by fraud, or has been fraudulently altered, or has been fraudulently misused.

[Dept. Reg. 108.541, 31 FR 13540, Oct. 20, 1966, as amended at 39 FR 6696, Feb. 22, 1974]

§ 51.72 Passports invalid for travel into or through restricted areas.

(a) Unless specifically validated therefore, U.S. passports shall cease to be valid for travel into or through a country or area which the Secretary has determined is:

(1) A country with which the United States is at war; or

(2) A country or area where armed hostilities are in progress; or

(3) A country or area in which there is imminent danger to the public health or physical safety of United States travelers.

(b) Any determination made under paragraph (a) of this section shall be published in the FEDERAL REGISTER along with a statement of the circumstances requiring this restriction.

(c) Unless limited to a shorter period, any such restriction shall expire at the end of one year from the date of publication of such notice in the FEDERAL REGISTER, unless extended or sooner revoked by the Secretary by public notice.

[Dept. Reg. 108.786, 45 FR 11128, Feb. 20, 1980]

§ 51.73 Special validation of passports for travel to restricted areas.

(a) A United States National wishing a validation of his passport for travel to, in, or through a restricted country or area may apply for a special validation to the Office of Passport Services, a passport agency, or a foreign service post authorized to issue passports. The application shall be accompanied by evidence that the applicant falls within the standards set out in paragraph (c) of this section.

(b) The Assistant Secretary of State for Consular Affairs or an authorized designee of that official shall decide whether or not to grant a special validation. The special validation shall be granted only when such action is determined to be in the national interest of the United States.

(c) An application may be considered if:

(1) The applicant is a professional reporter, the purpose of whose trip is to obtain, and make available to the public, information about the restricted area; or

(2) The applicant is a representative of the American Red Cross; or

(3) The applicant establishes that his or her trip is justified by compelling humanitarian considerations; or

(4) The applicant's request is otherwise in the national interest.

(Sec. 1, 44 Stat. 887, as amended (22 U.S.C. 211a); sec. 4, 63 Stat. 111, as amended (22 U.S.C. 2658); E.O. 11295, 36 FR 10603; 3 CFR 1966-70 Comp., 507; E.O. 12211, 45 FR 26685)

[Dept. Reg. 108.790, 45 FR 30619, May 9, 1980]

§ 51.75 Notification of denial or withdrawal of passport.

Any person whose application for issurance of a passport has been denied, or who has otherwise been the subject of an adverse action taken on an individual basis with respect to his or her right to receive or use a passport shall be entitled to notification in writing of the adverse action. The notification shall set forth the specific reasons for the adverse action and the procedures for review available under § 51.81 through 51.105.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.594, 33 FR 12043, Aug. 24, 1968, as amended by Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

§ 51.76 Surrender of passport.

The bearer of a passport which is revoked shall surrender it to the Department or its authorized representative upon demand and upon his or her refusal to do so such passport may be invalidated by notifying the bearer in writing of the invalidation.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 FR 13540, Oct. 20, 1966, as amended by Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

Subpart F—Procedures for Review of Adverse Action

§ 51.80 Applicability of §§ 51.81 through 51.105.*

The provisions of §§51.81 through 51.105 apply to any action of the Secretary taken on an individual basis in denying, restricting, revoking, or invalidating a passport or in any other way adversely affecting the ability of a person to receive or use a passport except action taken by reason of noncitizenship or refusal to grant a discretionary exception from geographical limitations of general applicability. The provisions of this subpart shall constitute the administrative remedies provided by the Department to persons who are the subject of adverse action under § 51.70 or § 51.71.

[Dept. Reg. 108.583, 33 FR 5681, Apr. 12, 1968]

§ 51.81 Time limits on hearing to review adverse action.

A person who has been the subject of an adverse action with respect to his or her right to receive or use a passport shall be entitled, upon request made within 60 days after receipt of notice of such adverse action, to require the Department or the appropriate Foreign Service post, as the case may be, to establish the basis for its action in a proceeding before a hearing officer. If no such request is made within 60 days, the adverse action will be considered final and not subject to further administrative review. If such request is made within 60 days the adverse action shall be automatically vacated unless such proceeding is initiated by the Department or the appropriate Foreign Service post, as the case may be within 60 days after request, or such longer period as is requested by the person adversely affected and agreed to by the hearing officer.

(22 U.S.C. 2658 and 3926

[Dept. Reg. 108.541, 31 FR 13540, Oct. 20, 1966, as amended by Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

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* Editorial Note. Section 51.90 through 51.105 were removed at 44 FR 68827, Nov. 30, 1979.

§ 51.82 Notice of hearing.

The person adversely affected shall receive not less than 5 business days' notice in writing of the scheduled date and place of the hearing.

§ 51.83 Functions of the hearing officer.

The hearing officer shall act on all requests for review under § 51.81. He shall make findings of fact and submit recommendations to the Administrator of the Bureau of Security and Consular Affairs. In making his or her findings and recommendations, the hearing officer shall not consider confidential security information unless that information is made available to the person adversely affected and is made part of the record of the hearing.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 FR 13540, Oct. 20, 1966, as amended by Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

§ 51.84 Appearance at hearing.

The person adversely affected may appear at the hearing in person or with his or her attorney, or by his or her attorney. The attorney must possess the qualifications prescribed for practice before the Board of Appellate Review or be admitted to practice before the courts of the country in which the hearing is to be held.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.637, 36 FR 9068, May 19, 1971, as amended by Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

§ 51.85 Proceedings before the hearing officer.

The person adversely affected may appear and testify in his or her own behalf and may himself, or by his or her attorney, present witnesses and offer other evidence and make argument. If any witness whom the person adversely affected wishes to call is unable to appear in person, the hearing officer may, in his or her discretion, accept an affidavit by the witness or order evidence to be taken by deposition. The person adversely affected shall be entitled to be informed of all the evidence before the hearing officer and of the source of such evidence, and shall be entitled to confront and cross-examine any adverse witness. The person shall, upon request by the hearing officer, confirm his or her oral statements in an affidavit for the record.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 FR 13540, Oct. 20, 1966, as amended by Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

§ 51.86 Admissibility of evidence.

The person adversely affected and the Department may introduce such evidence as the hearing officer deems proper. Formal rules of evidence shall not apply, but reasonable restrictions shall be imposed as to relevancy, competency and materiality of evidence presented.

§ 51.87 Privacy of hearing.

The hearing shall be private. There shall be present at the hearing only the person adversely affected, his or her attorney, the hearing officer, official stenographers, employees of the Department directly concerned with the presentation of the case, and the witnesses. Witnesses shall be present at the hearing only while actually giving testimony or when otherwise directed by the hearing officer.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 FR 13540, Oct. 20, 1966, as amended by Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

§ 51.88 Transcript of hearing.

A complete verbatim stenographic transcript shall be made of the hearing by a qualified reporter, and the transcript shall constitute a permanent part of the record. Upon request, the appellant or his or her counsel shall be entitled to inspect the complete transcript and to purchase a copy thereof.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 FR 13540, Oct. 20, 1966, as amended by Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

§ 51.89 Decision of Assistant Secretary for Consular Affairs; notice of right to appeal.

The person adversely affected shall be promptly notified in writing of the decision of the Assistant Secretary for Consular Affairs and, if the decision is adverse to him or her, the notification shall state the reasons for the decision and inform him or her of the right to appeal the decision to the Board of Appellate Review (Part 7 of this chapter) within 60 days after receipt of notice of the adverse decision. If no appeal is made within 60 days, the decision will be considered final and not subject to further administrative review.

[Dept. Reg. 108.783, 44 FR 68847, Nov. 30, 1979]

PART 52—MARRIAGES

Sec.
52.1 Celebration of marriage.
52.2 Official witness at marriage ceremony.
52.3 Certificate of witness to marriage.
52.4 Authentication of marriage and divorce documents.
52.5 Certification as to marriage laws.

AUTHORITY: Sec. 4, 63 Stat. 111, as amended; 22 U.S.C. 2658.

SOURCE: Dept. Reg. 108.541, 31 FR 13546, Oct. 20, 1966, unless otherwise noted.

§ 52.1 Celebration of marriage.

Foreign Service officers are forbidden to celebrate marriages.

§ 52.2 Official witness at marriage ceremony.

(a) *Diplomatic representative.* A diplomatic representative shall not act as an official witness at a marriage ceremony.

(b) *Consular officer.* A consular officer, when requested, may act as an official witness at a marriage ceremony, in accordance with Title 22 U.S.C. 1172, provided that one of the contracting parties is a national of the United States and provided the consular officer has assured himself, as far as practicable, that the parties have complied with requirements of the applicable law of the place of celebration.

§ 52.3 Certificate of witness to marriage.

Whenever a consular officer witnesses a ceremony of marriage he shall complete a Certificate of Witness to Marriage form, affix thereto the seal of the consulate, certify that the marriage took place in his presence, and sign such certificate.

§ 52.4 Authentication of marriage and divorce documents.

(a) Whenever a consular officer is requested to authenticate the signature of local authorities on a document of marriage when he was not a witness to the marriage, he shall include in the body of his certificate of authentication the qualifying statement, "For the contents of the annexed document, the Consulate (General) assumes no responsibility."

(b) A consular officer shall include the same statement in certificates of authentication accompanying decrees of divorce.

§ 52.5 Certification as to marriage laws.

Although a consular officer may have knowledge respecting the laws of marriage, he shall not issue any official certificate with respect to such laws.

PART 53—TRAVEL CONTROL OF CITIZENS OF UNITED STATES IN TIME OF WAR OR NATIONAL EMERGENCY

Sec.

53.1 Passport requirement.
53.2 Exceptions
53.3 Attempt of a citizen to enter without a valid passport.
53.4 Optional use of a valid passport.

AUTHORITY: Sec. 215, 66 Stat. 190; 8 U.S.C. 1185. Proc. 3004, 18 FR 489; 3 CFR, 1949–1953 Comp.

SOURCE: Dept. Reg. 108.541, 31 FR 13546, Oct. 20, 1966, unless otherwise noted.

§ 53.1 Passport requirement.

Under section 215(b) of the Immigration and Nationality Act (8 U.S.C. 1185(b), it is unlawful except as otherwise provided for any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States without a valid passport.

§ 53.2 Exceptions.

A U.S. citizen is not required to bear a valid passport to enter or depart the United States:

(a) When traveling directly between parts of the United States as defined in § 50.1 of this chapter;

(b) When traveling between the United States and any country, territory, or island adjacent thereto in North, South or Central America excluding Cuba; provided, that this exception is not applicable to any such person when proceeding to or arriving from a place outside the United States for which a valid passport is required under this part if such travel is accomplished within 60 days of departure from the United States via any country or territory in North, South or Central America or any island adjacent thereto;

(c) When traveling as a bona fide seaman or air crewman who is the holder of record of a valid merchant mariner identification document or air crewman identification card;

(d) When traveling as a member of the Armed Forces of the United States on active duty;

(e) When he is under 21 years of age and is a member of the household of an official or employee of a foreign government or of the United Nations and is in possession of or included in a foreign passport;

(f) When he is a child under 12 years of age and is included in the foreign passport of an alien parent; however, such child will be required to provide evidence of his U.S. citizenship when entering the United States;

(g) When the citizen entering the United States presents a card of identity and registration issued by a consular office abroad to facilitate travel to the United States; or

(h) When specifically authorized by the Secretary of State through appropriate official channels to depart from or enter the United States, as defined in § 50.1 of this chapter. The fee for a waiver of the passport requirement under this section is $25.

[Dept. Reg. 108.541, 31 FR 13546, Oct. 20, 1966, as amended by Dept. Reg. 108.666, 37 FR 11459, June 8, 1972]

§ 53.3 Attempt of a citizen to enter without a valid passport.

The appropriate officer at the port of entry shall report to the Secretary of State for the purpose of invoking the waiver provisions of § 53.2(h), any citizen of the United States who attempts to enter the United States contrary to the provisions of this part.

§ 53.4 Optional use of a valid passport.

Nothing in this part shall be construed to prevent a citizen from using a valid passport in a case in which that passport is not required by this Part 53, provided such travel is not otherwise prohibited.

b. Presidential Proclamation 3004, January 17, 1953, 18 F.R. 489

CONTROL ON PERSONS LEAVING OR ENTERING THE UNITED STATES

By the President of the United States of America

Whereas section 215 of the Immigration and Nationality Act, enacted on June 27, 1952 (Public Law 414, 82nd Congress; 66 Stat. 163, 190)[1] authorizes the President to impose restrictions and prohibitions in addition to those otherwise provided by that Act upon the departure of persons from, and their entry into, the United States when the United States is at war or during the existence of any national emergency proclaimed by the President or, as to aliens, whenever there exists a state of war between or among two or more States, and when the President shall find that the interests of the United States so require; and

Whereas the national emergency the existence of which was proclaimed on December 16, 1950, by Proclamation 2914 still exists; and

Whereas because of the exigencies of the international situation and of the national defense then existing Proclamation No. 2523 of November 14, 1941, imposed certain restrictions and prohibitions, in addition to those otherwise provided by law, upon the departure of persons from and their entry into the United States; and

Whereas the exigencies of the international situation and of the national defense still require that certain restrictions and prohibitions, in addition to those otherwise provided by law, be imposed upon the departure of persons from and their entry into the United States:

Now, therefore, I, Harry S. Truman, President of the United States of America, acting under and by virtue of the authority vested in me by section 215 of the Immigration and Nationality Act and by section 301 of title 3 of the United States Code, do hereby find and publicly proclaim that the interests of the United States require that restrictions and prohibitions, in addition to those otherwise provided by law, be imposed upon the departure of persons from and their entry into, the United States; and I hereby prescribe and make the following rules, regulations, and orders with respect thereto:

(1) The departure and entry of citizens and nationals of the United States from and into the United States, including the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States, shall be subject to the regulations prescribed by the Secretary of State and published as sections 53.1 to 53.9, inclusive, of title 22 of the Code of Federal Regulations. Such regulations are hereby incorporated into and made a

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[1] For text, see section E, volume I.

part of this proclamation; and the Secretary of State is hereby authorized to revoke, modify, or amend such regulations as he may find the interests of the United States to require.

(2) The departure of aliens from the United States, including the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States, shall be subject to the regulations prescribed by the Secretary of State, with the concurrence of the Attorney General, and published as sections 53.61 to 53.71, inclusive, of title 22 of the Code of Federal Regulations. Such regulations are hereby incorporated into and made a part of this proclamation; and the Secretary of State, with the concurrence of the Attorney General, is hereby authorized to revoke, modify, or amend such regulations as he may find the interests of the United States to require.

(3) The entry of aliens into the Canal Zone and American Samoa shall be subject to the regulations prescribed by the Secretary of State, with the concurrence of the Attorney General, and published as sections 53.21 to 53.41, inclusive, of title 22 of the Code of Federal Regulations. Such regulations are hereby incorporated into and made a part of this proclamation; and the Secretary of State, with the concurrence of the Attorney General, is hereby authorized to revoke, modify, or amend such regulations as he may find the interests of the United States to require.

(4) Proclamation No. 2523 of November 14, 1941, as amended by Proclamation No. 2850 of August 17, 1949, is hereby revoked, but such revocation shall not affect any order, determination, or decision relating to an individual, or to a class of individuals, issued in pursuance of such proclamations prior to the revocation thereof, and shall not prevent prosecution for any offense committed, or the imposition of any penalties or forfeitures, liability for which was incurred under such proclamations prior to the revocation thereof; and the provisions of this proclamation, including the regulations of the Secretary of State incorporated herein and made a part thereof, shall be in addition, to, and shall not be held to revoke, supersede, modify, amend, or suspend, any other proclamation, rule, regulation, or order heretofore issued relating to the departure of persons from, or their entry into, the United States; and compliance with the provisions of this proclamation, including the regulations of the Secretary of State incorporated herein and made a part hereof, shall not be considered as exempting any individual from the duty of complying with the provisions of any other statute, law, proclamation, rule, regulation, or order heretofore enacted or issued and still in effect.

(5) I hereby direct all departments and agencies of the Government to cooperate with the Secretary of State in the execution of his authority under this proclamation and any subsequent proclamation, rule, regulation, or order issued in pursuance hereof; and such departments and agencies shall upon request make available to the Secretary of State for that purpose the services of their respective officials and agents. I enjoin upon all officers of the United States charged with the execution of the laws thereof the utmost diligence in preventing violations of section 215 of the Immigration and Nationality Act and this proclamation, including the regulations of the Secretary of State incorporated herein and made a part

hereof, and in bringing to trial and punishment any person violating any provision of that section or of this proclamation.

To the extent permitted by law, this proclamation shall take effect as of December 24, 1952.

In witness whereof, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

Done at the City of Washington this 17th day of January in the year of our Lord nineteen hundred and fifty-three and of the Independence of the United States of America the one hundred and seventy-seventh.

[SEAL]

HARRY S. TRUMAN.

By the President:
DEAN ACHESON,
Secretary of State.

4. Regulations of the Secretary of State (Dept. Reg. 108.556), 22 CFR 3.1 through 3.12, April 28, 1967, 32 F.R. 6569, as revised by Dept. Reg. 108.798, December 8, 1980, 45 F.R. 80819

PART 3—GIFTS AND DECORATIONS FROM FOREIGN GOVERNMENTS[1]

§ 3.1 Purpose.

These regulations provide basic standards for employees of the Department of State, the United States International Development Cooperation Agency (IDCA), the Agency for International Development (AID), and the International Communication Agency (USICA), their spouses (unless separated) and their dependents to accept and retain gifts and decorations from foreign governments.

§ 3.2 Authority.

(a) Section 515(a)(1) of the Foreign Relations Authorization Act of 1978 (91 Stat. 862–866), approved August 17, 1977 (hereafter referred to as the "the Act") amended Section 7342 of Title 5, U.S. Code (1976), making substantial changes in the law relating to the acceptance and retention of gifts and decorations from foreign governments.

(b) 5 U.S.C. 7342(g) authorizes each employing agency to prescribe regulations as necessary to carry out the new law.

§ 3.3 Definitions.

When used in this part, the following terms have the meanings indicated:

(a) "Employee" means (1) an officer or employee of the Department, AID, IDCA, or USICA, including an expert or consultant, however appointed, and (2) a spouse (unless separated) or a dependent of such a person, as defined in section 152 of the Internal Revenue Code of 1954 (26 U.S.C. 152).

(b) "Foreign government" means: (1) any unit of foreign governmental authority, including any foreign national, State, local, or municipal government; (2) any international or multinational organization whose membership is composed of any unit of foreign government as described in subsection (b)(1) of this section; (3) any agent or representative of any such unit or organization, while acting as such;

(c) "Gift" means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government;

(d) "Decoration" means an order, device, medal, badge, insignia, emblem or award tendered by, or received from, a foreign government;

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[1] See also material dealing with foreign gifts and decorations, section E, volume I.

(e) "Minimal value" means retail value in the United States at the time of acceptance of $100 or less, except that on January 1, 1981, and at 3-year intervals thereafter, "minimal value" is to be redefined in regulations prescribed by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period.

§3.4 Restriction on acceptance of gifts and decorations.

(a) An employee is prohibited from requesting or otherwise encouraging the tender of a gift or decoration from a foreign government. An employee is also prohibited from accepting a gift or decoration from a foreign government, except in accordance with these regulations.

(b) An employee may accept and retain a gift of minimal value tendered and received as a souvenir or mark of courtesy, subject, however, to the following restrictions—

(1) Where more than one tangible item is included in a single presentation, the entire presentation shall be considered as one gift, and the aggregate value of all items taken together must not exceed "minimal value".

(2) The donee is responsible for determining that a gift is of minimal value in the United States at the time of acceptance. However, should any dispute result from a difference of opinion concerning the value of a gift, the employing agency will secure the services of an outside appraiser to establish whether the gift is one of "minimal value". If, after an appraisal has been made, it is established that the value of the gift in question is $200 or more at retail in the United States, the donee will bear the costs of the appraisal. If, however, the appraised value is established to be less than $200, the employing agency will bear the costs.

(c) An employee may accept a gift of more than minimal value when (1) such gift is in the nature of an educational scholarship or medical treatment, or (2) it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States.

(d) An employee may accept gifts of travel or expenses for travel taking place entirely outside the United States (such as transportation, food, and lodging) of more than minimal value if such acceptance is appropriate, consistent with the interests of the United States, and permitted by the employing agency. Except where the employing agency has specific interests which may be favorably affected by employee travel wholly outside the United States, even though it would not normally authorize its employees to engage in such travel, the standards normally applied to determine when proposed travel will be in the best interests of the employing agency and of the United States Government shall be applied in approving acceptance of travel or travel expenses offered by a foreign government.

(1) There are two circumstances under which employees may accept gifts of travel or expenses:

(i) When the employee is issued official travel orders placing him or her in the position of accepting travel or travel expenses offered by a foreign government which are directly related to the authorized purpose of the travel; or

(ii) When the employee's travel orders specifically anticipate the acceptance of additional travel and travel expenses incident to the authorized travel.

(2) When an employee is traveling under circumstances described in paragraph (d)(1)(i) of this section, that is, without specific instructions authorizing acceptance of additional travel expenses from a foreign government, the employee must file a report with the employing agency under the procedures prescribed in §3.6.

(e) Since tangible gifts of more than minimal value may not lawfully become the personal property of the donee, all supervisory officials shall, in advising employees of their responsibilities under the regulations, impress upon them their obligation to decline acceptance of such gifts, whenever possible, at the time they are offered, or to return them if they have been sent or delivered without a prior offer. All practical measures, such as periodic briefings, shall be taken to minimize the number of gifts which employees must deposit and which thus become subject to disposal as provided by law and regulation. Employees should not accept gifts of more than minimal value on the assumption that refusal would be likely to "cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States". In many instances it should be possible, by explanation of the prohibition against an employee's retention of such gifts, to avoid consequences of acceptance, including possible return of the gift to the donor. Refusal of the gift at the inception should typically be regarded as in the interest both of the foreign government donor and the U.S. Government.

§3.5 Designation of officials and offices responsible for administration of foreign gifts and decorations.

(a) The Act effects a significant degree of decentralization of administration relative to the disposal of foreign gifts and decorations which become U.S. Government property. Each agency is now responsible for receiving from its employees deposits of foreign gifts of more than minimal value, as well as of foreign decorations not meeting the statutory criteria for retention by the recipient. The agency is also responsible for disposing of this property by return to the donor, for retaining it in the agency if official use of it is approved, for reporting to the General Services Administration within 30 calendar days after deposit items neither disposed of nor retained, and for assuming custody, proper care and handling of such property pending removal from that custody pursuant to disposal arrangements by the General Services Administration. The Secretary of State, however, is made responsible for providing guidance to other executive agencies in the development of their own regulations to implement the Act, as well as for the annual publication of lists of all gifts of more than minimal value deposited by Federal employees during the preceding year. [See §3.5(c).] Authority for the discharge of the Secretary's responsibilities is delegated by these regulations to the Chief of Protocol.

(b) The Office of the Chief of Protocol retains primary responsibility for administration of the Act within the Department of State. That Office will, however, serve as the depository only for those foreign gifts and decorations which are turned in by State Department employees. The Director of Personnel Services of the USICA will have responsibility for administration of the Act within that agency and will serve as the depository of foreign gifts and decorations. Employees of the other foreign affairs agencies must deposit with their respective agencies any gifts or decorations deposit of which is required by law.

(c) Any questions concerning the implementation of these regulations or interpretation of the law should be directed to the following:

(1) For the Department of State, to the Office of Protocol or to the Office of the Assistant Legal Adviser for Management, as appropriate;

(2) For IDCA, to the Office of the General Counsel;

(3) For AID, to the Assistant General Counsel for Employee and Public Affairs; and

(4) For USICA, to the General Counsel.

§ 3.6 Procedure to be followed by employees in depositing gifts of more than minimal value and reporting acceptance of travel or travel expenses.

(a) An employee who has accepted a tangible gift of more than minimal value shall, within 60 days after acceptance, relinquish it to the designated depository office for the employing agency for disposal or with the approval of that office, deposit it for official use at a designated location in the employing agency or at a specified Foreign Service post. The designated depository offices are:

(1) For the Department of State, the Office of Protocol;

(2) For IDCA, the General Services Division of the Office of Management Planning in AID;

(3) For AID, the General Services Division of the Office of Management Planning; and

(4) For USICA, the Office of Personnel Services.

(b) At the time that an employee deposits gifts of more than minimal value for disposal or for official use pursuant to paragraph (a) of this section, or within 30 days after accepting a gift of travel or travel expenses as provided in § 3.4(d) (unless the gift of such travel or travel expenses has been accepted in accordance with specific instructions from the Department or agency), the employee shall file a statement with the designated depository office with the following information:

(1) For each tangible gift reported:

(i) The name and position of the employee;

(ii) A brief description of the gift and the circumstances justifying acceptance;

(iii) The identity of the foreign government and the name and position of the individual who presented the gift;

(iv) The date of acceptance of the gift;

(v) The donee's best estimate in specific dollar terms of the value of the gift in the United States at the time of acceptance; and

(vi) Disposition or current location of the gift. (For State Department employees, forms for this purpose are available in the Office of Protocol.)

(2) For each gift of travel or travel expenses:

(i) The name and position of the employee;

(ii) A brief description of the gift and the circumstances justifying acceptance; and

(iii) The identity of the foreign government and the name and position of the individual who presented the gift.

(c) The information contained in the statements called for in paragraph b of this section is needed to comply with the statutory requirement that, not later than January 31 of each year, the Secretary of State publish in the Federal Register a comprehensive listing of all such statements filed by Federal employees concerning gifts of more than minimal value received by them during the preceding year.

§ 3.7 Decorations.

(a) Decorations tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance may be accepted, retained, and worn by an employee, subject to the approval of the employing agency. Without such approval, the decoration is deemed to have been accepted on behalf of the United States and, like tangible gifts of more than minimal value, must be deposited by the employee with the designated depository office for the employing agency within sixty days after acceptance, for retention for official use or for disposal in accordance with § 3.9.

(b) The decision as to whether a decoration has been awarded for outstanding or unusually meritorious performance will be made:

(1) For the Department of State, by the supervising Assistant Secretary of State or comparable official, except that, in the case of a decoration awarded to an Assistant Secretary or other officer of comparable or higher rank, the decision shall be made by the Office of Protocol;

(2) For IDCA, by the Assistant Director for Administration;

(3) For AID, by the Director of Personnel Management; and

(4) For USICA, by the Supervising Associate Director, the General Counsel, or the Director of the Office of Congressional and Public Liaison (for domestic employees), and by the Director of Area Offices (for overseas employees).

(c) To justify an affirmative decision, a statement from the foreign government, preferably in the form of a citation which shows the specific basis for the tender of the award, should be supplied. An employee who has received or been tendered a decoration should forward to the designated depository office of the employing agency a request for review of the case. This request should contain a statement of circumstances of the award and such documentation from the foreign government as has accompanied it. The depository office will obtain the decision of the cognizant office as to whether the award meets the statutory criteria and thus whether the decoration may be retained and worn. Pending receipt of that decision, the decoration should remain in the custody of the recipient.

§3.8 Approval of retention of gifts or decorations with employing agency for official use.

(a) At the request of an overseas post or an office within the employing agency, a gift or decoration deemed to have been accepted on behalf of the United States may be retained for official use. Such retention should be approved:

(1) For the Department of State, by the Chief of Protocol;
(2) For IDCA, by AID's Director of Management Operations;
(3) For AID, by the Director of Management Operations; and
(4) For USICA, by the Associate Director for Management.

However, to qualify for such approval, the gift or decoration should be an item which can be used in the normal conduct of agency business, such as a rug or a tea service, or an art object meriting display, such as a painting or sculpture. Personal gift items, such as wristwatches, jewelry, or wearing apparel, should not be regarded as suitable for "official use". Only under unusual circumstances will retention of a decoration for official use be authorized. Every effort should be made to place each "official use" item in a location that will afford the largest number of employees, and, if feasible, members of the public, the maximum opportunity to receive the benefit of its display, provided the security of the location is adequate.

(b) Items approved for official use must be accounted for and safeguarded as Federal property at all times under standard Federal property management procedures. Within 30 days after the official use of a gift has been terminated, the gift or decoration shall be deposited with the designated depository office of the employing agency to be held pending completion of disposal arrangements by the General Services Administration.

§3.9 Disposal of gifts and decorations which become the property of the United States.

(a) Gifts and decorations which have been reported to an employing agency shall either be returned to the donor or kept in safe storage pending receipt of instructions from the General Services Administration for transfer, donation or other disposal under the provisions of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, and the Federal Property Management Regulations (41 CFR Part 101-49). The employing agency shall examine each gift or decoration and the circumstances surrounding its donation and assess whether any adverse effect upon the foreign relations of the United States might result from a return of the gift (or decoration) to the donor, which shall be the preferred means of disposal. If this is not deemed feasible, the employing agency is required by GSA regulations to report deposit of the gift or decoration within 30 calendar days, using Standard Form 120, Report of Excess Personal Property and, as necessary, Standard Form 120A, Continuation Sheet, and citing Section 7342 of Title 5, U.S. Code (1976), on the reporting document. Such reports shall be submitted to the General Services Administration, Washington National Capital Region (WDPO), Attention: Federal

Property Resources Service, Seventh and D Streets, S.W., Washington, D.C. 20407.

(b) No gift or decoration deposited with the General Services Administration for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. When depositing gifts or decorations with the designated depository office of their employing agency, employees may indicate their interest in participating in any subsequent sale of the items by the Government. Before gifts and decorations may be considered for sale by the General Services Administration, however, they must first have been offered for transfer to Federal agencies and for donation to the States. Consequently, employees should understand that there is no assurance that an item will be offered for sale, or, if so offered, that it will be feasible for an employee to participate in the sale. Employees are reminded in this connection that the primary aim of the Act is to discourage employees' acceptance of gifts of more than minimal value.

§ 3.10 Enforcement.

(a) Each employing agency is responsible under the Act for reporting to the Attorney General cases in which there is reason to believe that one of its employees has violated the Act. The Attorney General in turn may file a civil action in any United States District Court against any Federal employee who has knowingly solicited or accepted a gift from a foreign government in violation of the Act, or who has failed to deposit or report such gift, as an Act required by the Act. In such case, the court may assess a maximum penalty of the retail value of a gift improperly solicited or received, plus $5,000.

(b) Supervisory officials at all levels within employing agencies shall be responsible for providing periodic reorientation of all employees under their supervision on the basic features of the Act and these regulations, and for ensuring that those employees observe the requirements for timely reporting and deposit of any gifts of more than minimal value they may have accepted.

(c) Employees are advised of the following actions which may result from failure to comply with the requirements of the Act and these regulations:

(1) Any supervisor who has substantial reason to believe that an employee under his or her supervision has violated the reporting or other compliance provisions of the Act shall report the facts and circumstances in writing to the senior official in charge of administration within the cognizant bureau or office or at the post abroad. If that official upon investigation decides that an employee who is the donee of a gift or is the recipient of travel or travel expenses has, through actions within the employee's control, failed to comply with the procedures established by the Act and these regulations, the case shall be referred to the Attorney General for appropriate action.

(2) In cases of confirmed evidence of a violation, whether or not such violation results in the taking of action by the Attorney General, the senior administrative official referred to in § 3.10(c)(1) as responsible for forwarding a violation report to the Attorney Gen-

eral shall institute appropriate disciplinary action against an employee who has failed to (i) Deposit tangible gifts within 60 days after acceptance, (ii) account properly for the acceptance of travel exenses or (iii) comply with the Act's requirements respecting disposal of gifts and decorations retained for official use.

(3) In cases where there is confirmed evidence of a violation, but no evidence that the violation was willful on the part of the employee, the senior administrative official referred to in § 3.10(c)(1) shall institute appropriate disciplinary action of a lesser degree than that called for in § 3.10(c)(2) in order to deter future violations by the same or another employee.

§ 3.11 Responsibility of chief of mission to inform host government of restrictions on employee's receipt of gifts and decorations.

A special provision of the Act requires the President to direct every chief of a United States diplomatic mission to inform the host government that it is a general policy of the United States Government to prohibit its employes from receiving gifts of more than minimal value or decorations that have not been tendered "in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance." Accordingly, all Chiefs of Mission shall in January of each year conduct a thorough and explicit program of orientation aimed at appropriate officials of the host government concerning the operation of the Act.

§ 3.12 Exemption of grants and other foreign government assistance in cultural exchange programs from coverage of foreign gifts and decorations legislation.

The Act specifically excludes from its application grants and other forms of assistance "to which section 108A of the Mutual Education and Cultural Exchange Act of 1961 applies". See 22 U.S.C. 2558 (a) and (b) for the terms and conditions under which Congress consents to the acceptance by a Federal employee of grants and other forms of assistance provided by a foreign government to facilitate the participation of such employee in a cultural exchange.

5. Migration and Refugee Assistance

a. Protocol Relating to the Status of Refugees [1] (with reservation)

Done at New York January 31, 1967; accession advised by the Senate of the United States of America subject to certain reservations, October 4, 1968; accession approved by the President of the United States of America, subject to said reservations, October 15, 1968; accession of the United States of America deposited with the Secretary-General of the United Nations, with the said reservations, November 1, 1968; proclaimed by the President of the United States of America November 6, 1968; entered into force with respect to the United States of America, November 1, 1968

PROTOCOL RELATING TO THE STATUS OF REFUGEES

The States Parties to the present Protocol,

Considering that the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 [2] (hereinafter referred to as the Convention) covers only those persons who have become refugees as a result of events occurring before 1 January 1951,

Considering that the new refugee situations have arisen since the Convention was adopted and that the refugees concerned may therefore not fall within the scope of the Convention,

Considering that it is desirable that equal status should be enjoyed by all refugees covered by the definition in the Convention irrespective of the dateline 1 January 1951,

Have agreed as follows:

ARTICLE I

GENERAL PROVISION

1. The States Parties to the present Protocol undertake to apply articles 2 to 34 [3] inclusive to the Convention to refugees as hereinafter defined.

2. For the purpose of the present Protocol, the term "refugee" shall, except as regards the application of paragraph 3 of this article, mean any person within the definition of article 1 of the Convention as if the words "As a result of events occurring before 1 January 1951 and . . ." and the words ". . . as a result of such events", in article 1A(2) were omitted.

3. The present Protocol shall be applied by the States Parties hereto without any geographic limitation, save that existing declarations made by States already Parties to the Convention in accordance with article 1B(1)(*a*) of the Convention, shall, unless ex-

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[1] 19 UST 6223; TIAS 6577. For states which are party to the Protocol, see Department of State publication, *Treaties in Force*. For text of reservation, see page 150. See also material concerning migration and refugee assistance, section E, volume I.

[2] 189 UNTS 150, see page 179.

[3] See pages 179ff.

tended under article 1B(2) thereof, apply also under the present Protocol.

ARTICLE II

CO-OPERATION OF THE NATIONAL AUTHORITIES WITH THE UNITED NATIONS

1. The States Parties to the present Protocol undertake to co-operate with the Office of the United Nations High Commission for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of the present Protocol.

2. In order to enable the Office of the High Commissioner, or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the States Parties to the present Protocol undertake to provide them with the information and statistical data requested, in the appropriate form concerning:

(*a*) The condition of refugees;

(*b*) The implementation of the present protocol;

(*c*) Laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

ARTICLE III

INFORMATION ON NATIONAL LEGISLATION

The States Parties to the present Protocol shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of the present Protocol.

ARTICLE IV

SETTLEMENT OF DISPUTES

Any dispute between States Parties to the present Protocol which relates to its interpretation or application and which cannot be settled by other means shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.

ARTICLE V

ACCESSION

The present Protocol shall be open for accession on behalf of all States Parties to the Convention and of any other State Member of the United Nations or member of any of the specialized agencies or to which an invitation to accede may have been addressed by the General Assembly of the United Nations. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article VI

FEDERAL CLAUSE

In the case of Federal or non-unitary State, the following provisions shall apply:

(*a*) With respect to those articles of the Convention to be applied in accordance with article I, paragraph 1, of the present Protocol that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of States Parties which are not Federal States;

(*b*) With respect to those articles of the Convention to be applied in accordance with article I, paragraph 1, of the present Protocol that come within the legislative jurisdiction of constituent States, provinces or cantons which are not, under the constitutional system of the federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of States, provinces or cantons at the earliest possible moment;

(*c*) A Federal State Party to the present Protocol shall, at the request of any other State Party hereto transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention to be applied in accordance with article I, paragraph 1, of the present Protocol, showing the extent to which effect has been given to that provision by legislative or other action.

Article VII

RESERVATIONS AND DECLARATIONS

1. At the time of accession, any State may make reservations in respect of article IV of the present Protocol and in respect of the application in accordance with article I of the present Protocol of any provision of the Convention other than those contained in articles 1, 3, 4, 16(1) and 33 thereof, provided that in the case of a State Party to the Convention reservations made under this article shall not extend to refugees in respect of whom the Convention applies.

2. Reservations made by the States Parties to the Convention in accordance with article 42 thereof shall, unless withdrawn, be applicable in relation to their obligations under the present Protocol.

3. Any State making a reservation in accordance with paragraph 1 of this article may at any time withdraw such reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

4. Declaration made under article 40, paragraphs 1 and 2, of the Convention by a State Party thereto which accedes to the present Protocol shall be deemed to apply in respect of the present Protocol, unless upon accession a notification to the contrary is addressed by the State Party concerned to the Secretary-General of the United Nations. The provisions of article 40, paragraphs 2 and 3, and of article 44, paragraph 3, of the Convention shall be deemed to apply *mutatis mutandis* to the present Protocol.

ARTICLE VIII

ENTRY INTO FORCE

1. The present Protocol shall come into force on the day of deposit of the sixth instrument of accession.

2. For each State acceding to the Protocol after the deposit of the sixth instrument of accession, the Protocol shall come into force on the date of deposit by such State of its instrument of accession.

ARTICLE IX

DENUNCIATION

1. Any State Party hereto may denounce this Protocol at any time by a notification addressed to the Secretary-General of the United Nations.

2. Such denunciation shall take effect for the State Party concerned one year from the date on which it is received by the Secretary-General of the United Nations.

ARTICLE X

NOTIFICATIONS BY THE SECRETARY-GENERAL OF THE UNITED NATIONS

The Secretary-General of the United Nations shall inform the States referred to in article V above of the date of entry into force, accessions, reservations and withdrawals of reservations to and denunciations of the present Protocol, and of declarations and notifications relating hereto.

ARTICLE XI

DEPOSIT IN THE ARCHIVES OF THE SECRETARIAT OF THE UNITED NATIONS

A copy of the present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, signed by the President of the General Assembly and by the Secretary-General of the United Nations, shall be deposited in the archives of the Secretariat of the United Nations. The Secretary-General will transmit certified copies thereof to all States Members of the United Nations and to the other States referred to in article V above.

RESERVATION AS STATED IN PROCLAMATION

WHEREAS the Senate of the United States of America by its resolution of October 4, 1968, two-thirds of the Senators present concurring therein, did advise and consent to accession to the Protocol with the following reservations:

> "The United States of America construes Article 29 of the Convention as applying only to refugees who are resident in the United States and reserves the right to tax refugees who are not residents of the United States in accordance with its general rules relating to nonresident aliens."
>
> "The United States of America accepts the obligation of paragraph 1(b) of Article 24 of the Convention except insofar as that paragraph may conflict in certain instances with any provision of title II (old age, survivors' and disability insurance) or title XVIII (hospital and medical insurance for the aged) of the Social Security Act. As to any such provision, the United States will accord to refugees lawfully staying in its territory treatment no less favorable than is accorded aliens generally in the same circumstances."

b. Convention Relating to the Status of Refugees [1]

Done at Geneva, July 28, 1951

Preamble

The High Contracting Parties,

Considering that the Charter of the United Nations and the Universal Declaration of Human Rights approved on 10 December 1948 by the General Assembly have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination,

Considering that the United Nations has, on various occasions, manifested its profound concern for refugees and endeavored to assure refugees the widest possible exercise of these fundamental rights and freedoms,

Considering that it is desirable to revise and consolidate previous international agreements relating to the status of refugees and to extend the scope of and the protection accorded by such instruments by means of a new agreement,

Considering that the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international co-operation,

Expressing the wish that all States, recognizing the social and humanitarian nature of the problem of refugees, will do everything within their power to prevent this problem from becoming a cause of tension between States,

Noting that the United Nations High Commissioner for Refugees is charged with the task of supervising international conventions providing for the protection of refugees, and recognizing that the effective co-ordination of measures taken to deal with this problem will depend upon the co-operation of States with the High Commissioner.

Have agreed as follows:

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[1] 19 UST 6260; TIAS 6577. The United States is not a party to this Convention. However, the United States is a party to the Protocol Relating to the Status of Refugees (page 174) which incorporates Articles 2 through 34 of this Convention. See also material concerning migration and refugee assistance, section E, volume I.

Chapter I

GENERAL PROVISIONS

ARTICLE 1

Definition of the Term "Refugee"

A. For the purposes of the present Convention, the term "refugee" shall apply to any person who:

(1) Has been considered a refugee under the Arrangements of 12 May 1926[2] and 30 June 1928[3] or under the Conventions of 28 Octover 1933[4] and 10 February 1938,[5] the Protocol of 14 September 1939[6] or the Constitution of the International Refugee Organization;[7]

Decisions of non-eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfill the conditions of paragraph 2 of this section;

(2) As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

B. (1) For the purposes of this Convention, the words "events occurring before 1 January 1951" in article 1, section A, shall be understood to mean either

(*a*) "events occuring in Europe before 1 January 1951"; or

(*b*) "events occurring in Europe or elsewhere before 1 January 1951";

and each Contracting State shall make a declaration at the time of signature, ratification or accession, specifying which of these meanings it applies for the purpose of its obligations under this Convention.

(2) Any Contracting State which has adopted alternative (*a*) may at any time extend its obligations by adopting alternative (*b*) by

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[2] 89 LNTS 47.

[3] 89 LNTS 63.

[4] 159 LNTS 199.

[5] 192 LNTS 59.

[6] 198 LNTS 141.

[7] TIAS 1846; 62 Stat. (3) 3037.

means of a notification addressed to the Secretary-General of the United Nations.

C. This Convention shall cease to apply to any person falling under the terms of section A if:

(1) He has voluntarily re-availed himself of the protection of the country of his nationality; or

(2) Having lost his nationality, he has voluntarily reacquired it; or

(3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or

(4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or

(5) He can no longer, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality;

Provided that this paragraph shall not apply to a refugee falling under section A(1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality;

(6) Being a person who has no nationality he is, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence;

Provided that this paragraph shall not apply to a refugee falling under section A(1) of this article who is able to invoke compelling reasons arising out of previous persecutions for refusing to return to the country of his former habitual residence.

D. This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance.

When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall *ipso facto* be entitled to the benefits of this Convention.

E. This Convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.

F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

(*a*) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

(*b*) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;

(c) he has been guilty of acts contrary to the purposes and principles of the United Nations.

ARTICLE 2

General Obligations

Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.

ARTICLE 3

Non-discrimination

The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.

ARTICLE 4

Religion

The Contracting States shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practice their religion and freedom as regard the religious education of their children.

ARTICLE 5

Rights Granted Apart From This Convention

Nothing in this Conventioin shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.

ARTICLE 6

The Term "in the same circumstances"

For the purpose of this Convention, the term "in the same circumstances" implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfill for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature a refugee is incapable of fulfilling.

ARTICLE 7

Exemption from Reciprocity

1. Except where this Convention contains more favourable provisions, a Contracting State shall accord to refugees the same treatment as is accorded to aliens generally.

2. After a period of three years' residence, all refugees shall enjoy exemption from legislative reciprocity in the territory of the Contracting States.

3. Each Contracting State shall continue to accord to refugees the rights and benefits to which they were already entitled, in the absence of reciprocity, at the date of entry into force of this Convention for that State.

4. The Contracting States shall consider favourably the possibility of according to refugees, in the absence of reciprocity, rights and benefits beyond those to which they are entitled according to paragraphs 2 and 3, and to extending exemption from reciprocity to refugees who do not fulfill the conditions provided for in paragraphs 2 and 3.

5. The provisions of paragraphs 2 and 3 apply both to the rights and benefits referred to in articles 13, 18, 19, 21 and 22 of this Convention and to rights and benefits for which this Convention does not provide.

ARTICLE 8

Exemption from Exceptional Measures

With regard to exceptional measures which may be taken against the persons, property or interests of nationals of a foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State solely on account of such nationality. Contracting States which, under their legislation, are prevented from applying the general principle expressed in this article, shall, in appropriate cases, grant exemptions in favour of such refugees.

ARTICLE 9

Provisional Measures

Nothing in this Convention shall prevent a Contracting State, in time of war or other grave and exceptional circumstances, from taking provisionally measures which it considers to be essential to the national security in the case of a particular person, pending a determination by the Contracting State that that person is in fact a refugee and that the continuance of such measures is necessary in his case in the interests of national security.

ARTICLE 10

Continuity of Residence

1. Where a refugee has been forcibly displaced during the Second World War and removed to the territory of a Contracting State, and is resident there, the period of such enforced sojourn shall be considered to have been lawful residence within that territory.

2. Where a refugee has been forcibly displaced during the Second World War from the territory of a Contracting State and has, prior to the date of entry into force of this Convention, returned there for the purpose of taking up residence, the period of residence before and after such enforced displacement shall be regarded as

one uninterrupted period for any purposes for which uninterrupted residence is required.

Article 11

Refugee Seamen

In the case of refugees regularly serving as crew members on board a ship flying the flag of a Contracting State, that State shall give sympathetic consideration to their establishment on its territory and the issue of travel documents to them or their temporary admission to its territory particularly with a view to facilitating their establishment in another country.

Chapter II

JURIDICAL STATUS

Article 12

Personal Status

1. The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.

2. Rights previously acquired by a refugee and dependent on personal status, more particularly rights attaching to marriage, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities required by the law of that State, provided that the right in question is one which would have been recognized by the law of that State had he not become a refugee.

Article 13

Movable and Immovable Property

The Contracting States shall accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

Article 14

Artistic Rights and Industrial Property

In respect to the protection of industrial property, such as inventions, designs or models, trade marks, trade names, and of rights in literary, artistic and scientific works, a refugee shall be accorded in the country in which he has his habitual residence the same protection as is accorded to nationals of that country. In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his habitual residence.

ARTICLE 15

Rights of Association

As regards non-political and non-profitmaking associations and trade unions the Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.

ARTICLE 16

Access to Courts

1. A refugee shall have free access to the courts of law on the territory of all Contracting States.

2. A refugee shall enjoy in the Contracting State in which he has his habitual residence the same treatment as a national in matters pertaining to access to the Courts, including legal assistance and exemption from *cautio judicatun solvi.*

3. A refugee shall be accorded in the matters referred to in paragraph 2 in countries other than that in which he has his habitual residence the treatment granted to a national of the country of his habitual residence.

Chapter III

GAINFUL EMPLOYMENT

ARTICLE 17

Wage-earning Employment

1. The Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.

2. In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions:

(*a*) He has completed three years' residence in the country.

(*b*) He has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefit of this provision if he has abandoned his spouse;

(*c*) He has one or more children possessing the nationality of the country of residence.

3. The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals, and in particular of those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes.

ARTICLE 18

Self-employment

The Contracting States shall accord to a refugee lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.

ARTICLE 19

Liberal Professions

1. Each Contracting State shall accord to refugees lawfully staying in their territory who hold diplomas recognized by the competent authorities of that State, and who are desirous of practising a liberal profession, treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

2. The Contracting States shall use their best endeavours consistently with their laws and constitutions to secure the settlement of such refugees in the territories, other than the metropolitan territory, for whose international relations they are responsible.

Chapter IV

WELFARE

ARTICLE 20

Rationing

Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be accorded the same treatment as nationals.

ARTICLE 21

Housing

As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

ARTICLE 22

Public Education

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.

2. The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.

Article 23

Public Relief

The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

Article 24

Labour Legislation and Social Security

1. The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters:

(*a*) In so far as such matters are governed by laws or regulations or are subject to the control of administrative authorities: remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age of employment, apprenticeship and training, women's work and the work of young persons, and the enjoyment of the benefits of collective bargaining;

(*b*) Social security (legal provisions in respect of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations;

(i) There may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;

(ii) National laws or regulations of the country of residence may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfill the contribution conditions prescribed for the award of a normal pension.

2. The right to compensation for the death of a refugee resulting from employment injury or from occupational disease shall not be affected by the fact that the residence of the beneficiary is outside the territory of the Contracting State.

3. The Contracting States shall extend to refugees the benefits of agreements concluded between them, or which may be concluded between them in the future, concerning the maintenance of acquired rights and rights in the process of acquisition in regard to

social security, subject only to the conditions which apply to nationals of the States signatory to the agreements in question.

4. The Contracting States will give sympathetic consideration to extending to the refugees so far as possible the benefits of similar agreements which may at any time be in force between such Contracting States and noncontracting States.

Chapter V

ADMINISTRATIVE MEASURES

ARTICLE 25

Administrative Assistance

1. When the exercise of a right by a refugee would normally require the assistance of authorities of a foreign country to whom he cannot have recourse, the Contracting States in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities or by an international authority.

2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered under their supervision to refugees such documents or certifications as would normally be delivered to aliens by or through their national authorities.

3. Documents or certifications so delivered shall stand in the stead of the offical instruments delivered to aliens by or through their national authorities, and shall be given credence in the absence of proof to the contrary.

4. Subject to such exceptional treatment as may be granted to indigent persons fees may be charged for the services mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services.

5. The provisions of this article shall be without prejudice to articles 27 and 28.

ARTICLE 26

Freedom of Movement

Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances.

ARTICLE 27

Identity Papers

The Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document.

ARTICLE 28

Travel Documents

1. The Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside

their territory, unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other refugee in their territory; they shall in particular give sympathetic consideration to the issue of such a travel document to refugees in their territory who are unable to obtain a travel document from the country of their lawful residence.

2. Travel documents issued to refugees under previous international agreements by parties thereto shall be recognized and treated by the Contracting States in the same way as if they had been issued pursuant to this article.

ARTICLE 29

Fiscal Charges

1. The Contracting States shall not impose upon refugees duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.

Nothing in the above paragraph shall prevent the application to refugees of the laws and regulations concerning charges in respect of the issue to aliens of administrative documents including identity papers.

ARTICLE 30

Transfer of Assets

1. A Contracting State shall, in conformity with its laws and regulations, permit refugees to transfer assets which they have brought into its territory, to another country where they have been admitted for the purposes of resettlement.

2. A Contracting State shall give sympathetic consideration to the application of refugees for permission to transfer assets wherever they may be and which are necessary for their resettlement in another country to which they have been admitted.

ARTICLE 31

Refugees Unlawfully in the Country of Refuge

1. The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.

The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

ARTICLE 32

Expulsion

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.

2. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.

3. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

ARTICLE 33

Prohibition of Expulsion or Return ("Refoulement")

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.

ARTICLE 34

Naturalization

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

Chapter VI

EXECUTORY AND TRANSITORY PROVISIONS

ARTICLE 35

Co-operation of the National Authorities with the United Nations

1. The Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the

exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.

2. In order to enable the Office of the High Commissioner or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the Contracting States undertake to provide them in the appropriate form with information and statistical data requested concerning:

(*a*) the condition of refugees,

(*b*) the implementation of this Convention, and

(*c*) laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

ARTICLE 36

Information on National Legislation

The Contracting States shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of this Convention.

ARTICLE 37

Relation to Previous Convention

Without prejudice to article 28, paragraph 2, of this Convention, this Convention replaces, as between parties to it, the Arrangements of 5 July 1922,[8] 31 May 1924, 12 May 1926, 30 June 1928 and 30 July 1935, the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 and the Agreement of 15 October 1946.[9]

Chapter VII

FINAL CLAUSES

ARTICLE 38

Settlement of Disputes

Any dispute between parties to this Convention relating to its interpretation of application, which cannot be settled by other means, shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.

ARTICLE 39

Signature, Ratification and Accession

1. This Convention shall be opened for signature at Geneva on 28 July 1951 and shall thereafter be deposited with the Secretary-General of the United Nations. It shall be open for signature at the European Office of the United Nations from 28 July to 31 August 1951 and shall be re-opened for signature at the Headquarters of the United Nations from 17 September 1951 to 31 December 1952.

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[8] 13 LNTS 237.

[9] 11 LNTS 73.

2. This Convention shall be open for signature on behalf of all States Members of the United Nations, and also on behalf of any other State invited to attend the Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons or to which an invitation to sign will have been addressed by the General Assembly. It shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open from 28 July 1951 for accession by the States referred to in paragraph 2 of this article. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

ARTICLE 40

Territorial Application Clause

1. Any State may, at the time of signature, ratification or accession, declare that this Convention shall extend to all or any of the territories for the international relations of which it is responsible. Such a declaration shall take effect when the Convention enters into force for the State concerned.

2. At any time thereafter any such extension shall be made by notification addressed to the Secretary-General of the United Nations and shall take effect as from the ninetieth day after the day of receipt by the Secretary-General of the United Nations of this notification, or as from the date of entry into force of the Convention for the State concerned, whichever is the later.

3. With respect to those territories to which this Convention is not extended at the time of signature, ratification or accession, each State concerned shall consider the possibility of taking the necessary steps in order to extend the application of this Convention to such territories, subject, where necessary for constitutional reasons, to the consent of the Government of such territories.

ARTICLE 41

Federal Clause

In the case of a Federal or non-unitary State, the following provisions shall apply:

(*a*) With respect to those articles of this Convention that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of Parties which are not Federal States;

(*b*) With respect to those articles of this Convention that come within the legislative jurisdiction of constituent States, provinces or cantons which are not, under the constitutional system of the federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of States, provinces or cantons at the earliest possible moment.

(*c*) A Federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the

Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention showing the extent to which effect has been given to that provision by legislative or other action.

ARTICLE 42

Reservations

1. At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1, 3, 4, 16(1), 33, 36–46 inclusive.

2. Any State making a reservation in accordance with paragraph 1 of this article may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

ARTICLE 43

Entry into Force

1. This Convention shall come into force on the ninetieth day following the day of deposit of the sixth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the sixth instrument of ratification or accession, the Convention shall enter into force on the ninetieth day following the date of deposit by such State of its instrument of ratification or accession.

ARTICLE 44

Denunciation

1. Any Contracting State may denounce this Convention at any time by a notification addressed to the Secretary-General of the United Nations.

2. Such denunciation shall take effect for the Contracting State concerned one year from the date upon which it is received by the Secretary-General of the United Nations.

3. Any State which has made a declaration or notification under article 40 may, at any time thereafter, by a notification to the Secretary-General of the United Nations, declare that the Convention shall cease to extend to such territory one year after the date of receipt of the notification by the Secretary-General.

ARTICLE 45

Revision

1. Any Contracting State may request revision of this Convention at any time by a notification addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall recommend the steps, if any, to be taken in respect of such request.

ARTICLE 46

Notifications by the Secretary-General of the United Nations

The Secretary-General of the United Nations shall inform all Members of the United Nations and non-member States referred to in article 39:

(*a*) Of declaration and notifications in accordance with section B of article 1;

(*b*) Of signature, ratifications and accessions in accordance with article 39;

(*c*) Of declarations and notifications in accordance with article 40;

(*d*) Of reservations and withdrawals in accordance with article 42;

(*e*) Of the date on which this Convention will come into force in accordance with article 43;

(*f*) Of denunciations and notifications in accordance with article 44;

(*g*) Of requests for revision in accordance with article 45.

IN FAITH WHEREOF the undersigned, duly authorized, have signed this Convention on behalf of their respective Governments,

DONE at Geneva, this twenty-eighth day of July, one thousand nine hundred and fifty-one, in a single copy, of which the English and French texts are equally authentic and which shall remain deposited in the archives of the United Nations, and certified true copies of which shall be delivered to all Members of the United Nations and to the non-member States referred to in article 39.

SCHEDULE

Paragraph 1

1. The travel document referred to in article 28 of this Convention shall be similar to the specimen annexed hereto.

2. The document shall be made out in at least two languages, one of which shall be English or French.

Paragraph 2

Subject to the regulations obtaining in the country of issue, children may be included in the travel document of a parent or, in exceptional circumstances, of another adult refugee.

Paragraph 3

The fees charged for issue of the document shall not exceed the lowest scale of charges for national passports.

Paragraph 4

Save in special or exceptional cases, the document shall be made valid for the largest possible number of countries.

Paragraph 5

The document shall have a validity of either one or two years, at the discretion of the issuing authority.

Paragraph 6

1. The renewal or extension of the validity of the document is a matter for the authority which issued it, so long as the holder has not established lawful residence in another territory and resides lawfully in the territory of the said authority. The issue of a new document is, under the same conditions, a matter for the authority which issued the former document.

2. Diplomatic or consular authorities, specially authorized for the purpose, shall be empowered to extend, for a period not exceeding six months, the validity of travel documents issued by their Governments.

3. The Contracting States shall give sympathetic consideration to renewing or extending the validity of travel documents or issuing new documents to refugees no longer lawfully resident in their territory who are unable to obtain a travel document from the country of their lawful residence.

Paragraph 7

The Contracting States shall recognize the validity of the documents issued in accordance with the provisions of article 28 of this Convention.

Paragraph 8

The competent authorities of the country to which the refugee desires to proceed shall, if they are prepared to admit him and if a visa is required, affix a visa on the document of which he is the holder.

Paragraph 9

1. The Contracting States undertake to issue transit visas to refugees who have obtained visas for a territory of final destination.

2. The issue of such visas may be refused on grounds which would justify refusal of a visa to any alien.

Paragraph 10

The fees for the issue of exit, entry or transit visas shall not exceed the lowest scale of charges for visas on foreign passports.

Paragraph 11

When a refugee has lawfully taken up residence in the territory of another Contracting State, the responsibility for the issue of a new document, under the terms and conditions of article 28, shall be that of the competent authority of that territory, to which the refugee shall be entitled to apply.

Paragraph 12

The authority issuing a new document shall withdraw the old document and shall return it to the country of issue if it is stated in the document that it should be so returned; otherwise it shall withdraw and cancel the documen

Paragraph 13

1. Each Contracting State undertakes that the holder of a travel document issued by it in accordance with article 28 of this Convention shall be readmitted to its territory at any time during the period of its validity.

2. Subject to the provisions of the preceding sub-paragraph, a Contracting State may require the holder of the document to comply with such formalities as may be prescribed in regard to exit from or return to its territory.

3. The Contracting States reserve the right, in exceptional cases, or in cases where the refugee's stay is authorized for a specific period, when issuing the document, to limit the period during which the refugee may return to a period of not less than three months.

Paragraph 14

Subject only to the terms of paragraph 13, the provisions of this Schedule in no way affect the laws and regulations governing the conditions of admission to, transit through, residence and establishment in, and departure from, the territories of the Contracting States.

Paragraph 15

Neither the issue of the document nor the entries made thereon determine or affect the status of the holder, particularly as regards nationality.

Paragraph 16

The issue of the document does not in any way entitle the holder to the protection of the diplomatic or consular authorities of the country of issue, and does not confer on these authorities a right of protection.

F. INFORMATION AND EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

CONTENTS

Page
1. United States Information and Educational Exchange Related Materials...... 199
    a. Reorganization Plan No. 8 of 1953 (Establishing the USIA).................. 199
    b. Reorganization Plan No. 2 of 1977 (Establishing the International Communication Agency)........ 200
2. Exchange of Materials and Objects........ 205
    a. Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, and Cultural Character (Beirut Agreement of 1949)........ 205
    b. Agreement on the Importation of Educational, Scientific, and Cultural Materials (Florence Agreement) (with reservation)........ 211

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1. United States Information and Educational Exchange Related Materials

a. Reorganization Plan No. 8 of 1953[1]

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 1, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended

> NOTE.—Much of Reorganization Plan No. 8 of 1953 was superseded by Reorganization Plan No. 2 of 1977. The retained provisions of the 1953 plan are included below. For text of the 1977 plan, see page 174.

UNITED STATES INFORMATION AGENCY

Sec. 2. Transfer of functions.—(a) Subject to subsection (c) of this section, there are hereby transferred to the Director, (1) the functions vested in the Secretary of State by Title V of the United States Information and Educational Exchange Act of 1948, as amended, and so much of functions with respect to the interchange of books and periodicals and aid to libraries and community centers under sections 202 and 203 of the said Act as is an integral part of information programs under that Act, together with so much of the functions vested in the Secretary of State by other provisions of the said Act as is incidental to or is necessary for the performance of the functions under Title V and sections 202 and 203 transferred by this section.

(b) * * * [Superseded—1978]

(c)(1) The Secretary of State shall direct the policy and control the content of a program, for use abroad, on official United States positions, including interpretations of current events, identified as official positions by an exclusive descriptive label.

(2) The Secretary of State shall continue to provide to the Director on a current basis full guidance concerning the foreign policy of the United States.

(d) To the extent the President deems it necessary in order to carry out the functions transferred by the foregoing provisions of this section, he may authorize the Director to exercise, in relation to the respective functions so transferred, any authority or part thereof available by law, including appropriation acts, to the Secretary of State, the Director for Mutual Security, or the Director of the Foreign Operations Administration, in respect of the said transferred functions.

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[1] 22 U.S.C. 1461 (note).

b. Reorganization Plan No. 2 of 1977

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, October 11, 1977, pursuant to the provisions of chapter 9 of title 5 of the United States Code

INTERNATIONAL COMMUNICATION AGENCY

Section 1. Establishment of the International Communication Agency

There is hereby established in the executive branch an agency to be known as the International Communication Agency (the "Agency").

Section 2. Director

The Agency shall be headed by a Director (the "Director"), who shall serve as the principal advisor to the President, the National Security Council, and the Secretary of State on the functions vested in the Director. The Director shall report to the President and the Secretary of State. Under the direction of the Secretary of State, the Director shall have primary responsibility within the Government for the exercise of the functions vested in the Director. The Director shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to receive compensation at the rate now or hereafter prescribed by law for Level II of the Executive Schedule.

Section 3. Deputy Director

A Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall act for, and exercise the powers of, the Director during the Director's absence or disability or during a vacancy in said office and, in addition, shall perform such duties and exercise such powers as the Director may from time to time prescribe. The Deputy Director shall be entitled to receive compensation at the rate now or hereafter prescribed by law for Level III of the Executive Schedule.

Section 4. Associate Directors

The President, by and with the advice and consent of the Senate, may appoint four Associate Directors, who shall perform such duties and exercise such powers as the Director may from time to time prescribe. One Associate Director shall be known as the Associate Director for Educational and Cultural Affairs and one Associate Director shall be known as the Associate Director for Broadcasting. Each Associate Director shall be entitled to receive compensation at the rate now or hereafter prescribed by law for Level IV of the Executive Schedule.

Section 5. Performance of Functions

The Director may establish within the Agency bureaus, offices, divisions and other units. The Director may from time to time make provision for the performance of any function of the Director by any officer, employee or unit of the Agency.

Section 6. Negotiations

(a) Under the direction of the Secretary of State, the Director shall prepare for, manage and conduct negotiations with representatives of foreign states or international organizations on matters for which responsibility is vested in the Director or in the Agency.

(b) For the purpose of conducting such negotiations, or for the purpose of exercising any other authority vested in the Director or in the Agency, the Director may—

(1) consult and communicate with or direct the consultation and communication with representatives of other nations or of international organizations; and

(2) communicate in the name of the Secretary of State with diplomatic representatives of the United States in this country and abroad.

Section 7. Transfer of Functions

(a) There are hereby transferred to the Director all functions vested in the President, the Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency pursuant to the following:

(1) the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431-1479), except to the extent that any function in sections 302, 401, or 602 is vested in the President;

(2) the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451-2458a), except for: (A) such functions as are vested by sections 102(b)(6), 102(b)(10), 104(a), 104(e)(1), 104(e)(2), 104(f), 104(g), 105(a), 105(b), 105(c), 106(a), 108; (B) to the extent that such functions were assigned to the Secretary of Health, Education, and Welfare immediately prior to the effective date of this Reorganization Plan, sections 104(b), 105(d)(2), 105(f), 106(d), and 106(f); and (C) to the extent that any function therein is vested in the President or the Secretary of State, sections 106(b) and 106(c).

(3) Public Law 90-494 (22 U.S.C. 929-932, 1221-1234), to the extent that such functions are vested in the Director of the United States Information Agency;

(4) Sections 522(3), 692(1), and 803(a)(4) of the Foreign Service Act of 1946, as amended (22 U.S.C. 922(3), 1037a(1), and 1063(a)(4)), to the extent such functions are vested in the Director of the United States Information Agency or in the United States Information Agency;

(5) Section 4 of the United States Information Agency Appropriations Authorization Act of 1973, Public Law 93-168;

(6)(A) Sections 107(b), 204 and 205 of the Foreign Relations Authorizations Act, Fiscal Year 1978, Public Law 95-105, 91 Stat. 844; and (B) to the extent such functions are vested in the

Director of the United States Information Agency, section 203 of the Act;

(7) the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054–2057);

(8) Sections 101(a)(15)(J) and 212(e) of the Immigration and Nationality Act (8 U.S.C. 1011(a)(15)(J), 1182(e));

(9) Section 2(a)(1) of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note);

(10) Section 3(a) of the Arts and Artifacts Indemnity Act (20 U.S.C. 972(a));

(11) Section 7 of the Act of June 15, 1951, c.138, 65 Stat. 71 (50 U.S.C. App. 2316);

(12) Section 9(b) of the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 958(b)), to the extent that such functions are vested in the Secretary of State;

(13) Section 112(a) of the Higher Education Act of 1965 (20 U.S.C. 1009(a)), to the extent such functions are vested in the Department of State;

(14) Section 3(b)(1) of the Woodrow Wilson Memorial Act of 1968 (20 U.S.C. 80f(b)(1));

(15) Section 201 of Public Law 89–665, as amended by section 201(5) of Public Law 94–422 (16 U.S.C. 470i(a)(9));

(16) The third proviso in the twenty-third unnumbered paragraph of title V of Public Law 95–86 (headed "UNITED STATES INFORMATION AGENCY, SALARIES AND EXPENSES"), 91 Stat. 440–41;

(17) The twentieth unnumbered paragraph of title I of Public Law 95–86 (headed "CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST"), 91 Stat. 424;

(18) Sections 4(d)(1)(F), 4(f)(1)(F), 4(g)(1)(F), and 4(h)(1)(F) of the Foreign Service Buildings Act, 1926, as amended (22 U.S.C. 295(d)(1)(F), 295(f)(1)(F), 295(g)(1)(F), and 295(h)(1)(F)); and

(19) Sections 1, 2, and 3 of the Act of July 9, 1949, c.301, 63 Stat. 408 (22 U.S.C. 2681–2683).

(b) There are hereby transferred to the Director all functions vested in the Assistant Secretary of State for Public Affairs pursuant to Section 2(a) of the John F. Kennedy Center Act (20 U.S.C. 76h(a)).

(c) The Director shall insure that the scholarly integrity and nonpolitical character of educational and cultural exchange activities vested in the Directors are maintained.

Section 8. Establishment of the United States Advisory Commission on International Communication, Cultural and Educational Affairs

(a) There is hereby established an advisory commission, to be known as the United States Advisory Commission on International Communication, Cultural and Educational Affairs (the "Commission"). The Commission shall consist of seven members who shall be appointed by the President, by and with the advice and consent of the Senate. The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, communications, cultural, scientific, technical, public service, labor and business and professional backgrounds. Not more than four members shall be from any one political party. The term of each member shall be three years except that of the original seven appointments, two shall be for a term of one year and two shall be for a term of two years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of a member's term of office, such member may continue to serve until a successor is appointed and has qualified. The President shall designate a member to chair the Commission.

(b) The functions now vested in the United States Advisory Commission on Information and in the United States Advisory Commission on International Education and Cultural Affairs under sections 601 through 603 and 801(6) of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1466–1468, 1741(6)), and under sections 106(b) and 107 of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2456(b), 2457), respectively, are hereby consolidated and vested in the Commission, as follows:

The Commission shall formulate and recommend to the Director, the Secretary of State, and the President policies and programs to carry out functions vested in the Director or the Agency, and shall appraise the effectiveness of policies and programs of the Agency. The Commission shall submit to the Congress, the President, the Secretary of State and the Director annual reports on programs and activities carried on by the Agency, including appraisals, where feasible, as to the effectiveness of the several programs. The Commission shall also include in such reports such recommendations as shall have been made by the Commission to the Director for effectuating the purposes of the Agency, and the action taken to carry out such recommendations. The Commission may also submit such other reports to the Congress as it deems appropriate, and shall make reports to the public in the United States and abroad to develop a better understanding of and support for the programs conducted by the Agency. The Commission's reports to the Congress shall include assessments of the degree to which the scholarly integrity and nonpolitical character of the educational and cultural exchange activities vested in the Director have been maintained, and assessments of the attitudes of foreign scholars and governments regarding such activities.

(c) The Commission shall have no authority with respect to the Board of Foreign Scholarships or the United States National Commission for UNESCO.

Section 9. Abolitions and Supersessions

(a) The following are hereby abolished:

(1) The United States Information Agency, including the offices of Director, Deputy Director, Deputy Director (Policy and Plans) (5 U.S.C. 5316(67)), Associate Director (Policy and Plans) (5 U.S.C. 5316(103)), and additional offices created by section 1(d) of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note), of the United States Information Agency, provided that, pending the initial appointment of the Director, Deputy Director and Associate Directors of the Agency their functions shall be

performed temporarily, but not for a period in excess of sixty (60) days, by such officers of the Department of State or of the United States Information Agency as the President shall designate;

(2) One of the offices of Assistant Secretary of State provided for in section 1 of the Act of May 26, 1949, c.143, 63 Stat. 111, as amended (22 U.S.C. 2652), and in section 5315(22) of title 5 of the United States Code;

(3) The United States Advisory Commission on International Educational and Cultural Affairs (22 U.S.C. 2456(b));

(4) The United States Advisory Commission on Information (22 U.S.C. 1466–1468);

(5) All functions vested in or related to the United States Advisory Commission on International Educational and Cultural Affairs and the United States Advisory Commission on Information that are not transferred to the Director by section 7 or consolidated in the Commission by section 8 of this Reorganization Plan;

(6) The Advisory Committee on the Arts, all functions thereof, and all functions relating thereto (22 U.S.C. 2456(c)); and

(7) The functions vested in the Secretary of State by section 3(e) of the Act of August 1, 1956, c.841, 70 Stat. 890 (22 U.S.C. 2670(e)).

(b) Sections 1, 2(a)(2), 2(b), 2(c)(3), 3, 4, and 5 of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note) are hereby superseded.

Section 10. Other Transfers

So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred or consolidated by this Reorganization Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate department, agency, or commission at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of all agencies, commissions, and offices abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

Section 11. Effective Date

This Reorganization Plan shall become effective at such time or times, on or before July 1, 1978, as the President shall specify, but not sooner than the earliest time allowable under section 906 of title 5 of the United States Code.

2. Exchange of Materials and Objects

a. Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific and Cultural Character (Beirut Agreement of 1949)[1]

Agreement and protocol opened for signature at Lake Success July 15, 1949; Signed on behalf of the United States of America September 13, 1949; Ratification advised by the Senate of the United States of America May 26, 1960; Ratified by the President of the United States of America September 30, 1966; Acceptance by the United States of America deposited with the Secretary-General of the United Nations October 14, 1966; Proclaimed by the President of the United States of America October 14, 1966; Date of entry into force with respect to the United States of America January 12, 1967

The Governments of the States signatory to the present Agreement,

Being convinced that in facilitating the international circulation of visual and auditory materials of an educational, scientific and cultural character, the free flow of ideas by word and image will be promoted and the mutual understanding of peoples thereby encouraged, in conformity with the aims of the United Nations Educational, Scientific and Cultural Organization,

Have agreed as follows:

ARTICLE I

The present Agreement shall apply to visual and auditory materials of the types specified in article II which are of an educational, scientific or cultural character.

Visual and auditory materials shall be deemed to be of an educational, scientific or cultural character:

(a) When their primary purpose or effect is to instruct or inform through the development of a subject or aspect of a subject, or when their content is such as to maintain, increase or diffuse knowledge, and augment international understanding and good will; and

(b) When the materials are representative, authentic, and accurate; and

(c) When the technical quality is such that it does not interfere with the use made of the material.

ARTICLE II

The provisions of the preceding Article shall apply to visual and auditory materials of the following types and forms:

(a) Films, filmstrips and microfilm in either negative form, exposed and developed, or positive form, printed and developed;

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[1] 17 UST 1578; TIAS 6116. For a list of states which are parties to the Agreement, see Department of State publication, *Treaties in Force*.

(b) Sound recordings of all types and forms;

(c) Glass slides; models, static and moving; wall charts, maps and posters.

These materials are hereinafter referred to as material.

ARTICLE III

1. Each of the contracting States shall accord, within six months from the coming into force of the present Agreement with respect to that State exemption from all Customs duties and quantitative restrictions and from the necessity of applying for an import license in respect of the importation, either permanent or temporary, of material originating in the territory of any of the other contracting States.

2. Nothing in this Agreement shall exempt material from those taxes, fees, charges or exactions which are imposed on the import of all articles without exception and without regard to their nature and origin, even though such articles are exempt from customs duties; such taxes, fees and exactions shall include, but are not limited to, nominal statistical fees and stamp duties.

3. Material entitled to the privileges provided by paragraph 1 of this article shall be exempt, in the territory of the country of entry, from all internal taxes, fees, charges or exactions other or higher than those imposed on like products of that country, and shall be accorded treatment no less favourable than that accorded like products of that country in respect of all internal laws, regulations or requirements affecting its sale, transportation or distribution or affecting its processing, exhibition or other use.

4. Nothing in this Agreement shall require any contracting State to deny the treatment provided for in this article to like material of an educational, scientific or cultural character originating in any State not a party to this Agreement in any case in which the denial of such treatment would be contrary to an international obligation or to the commercial policy of such contracting State.

ARTICLE IV

1. To obtain the exemption, provided under the present Agreement for material for which admission into the territory of a contracting State is sought, a certificate that such material is of an educational, scientific or cultural character within the meaning of article I, shall be filed in connexion with the entry.

2. The certificate shall be issued by the appropriate governmental agency of the State wherein the material to which the certificate relates originated, or by the United Nations Educational, Scientific and Cultural Organization as provided for in paragraph 3 of this article, and in the forms annexed hereto. The prescribed forms of certificate may be amended or revised upon mutual agreement of the contracting States, provided such amendment or revision is in conformity with the provisions of this Agreement.

3. Certificates shall be issued by the United Nations Educational, Scientific and Cultural Organization for material of educational, scientific or cultural character produced by international organizations recognized by the United Nations or by any of the specialized agencies.

4. On the filing of any such certificate, there will be a decision by the appropriate governmental agency of the contracting State into which entry is sought as to whether the material is entitled to the privilege provided by article III, paragraph 1, of the present Agreement. This decision shall be made after consideration of the material and through the application of the standards provided in article I. If, as a result of that consideration, such agency of the contracting State into which entry is sought intends not to grant the privileges provided by article III, paragraph 1, to that material because it does not concede its educational, scientific and cultural character, the Government of the State which certified the material, or UNESCO, as the case may be, shall be notified prior to any final decision in order that it may make friendly representations in support of the exemption of that material to the Government of the other State into which entry is sought.

5. The governmental agency of the contracting State into which entry is sought shall be entitled to impose regulations upon the importer of the material to ensure that it shall only be exhibited or used for non-profit-making purposes.

6. The decision of the appropriate governmental agency of the contracting State into which entry is sought, provided for in paragraph 4 of this article shall be final, but in making its decision the said agency shall give due consideration to any representations made to it by the Government certifying the material or by UNESCO as the case may be.

ARTICLE V

Nothing in the present Agreement shall affect the right of the contracting States to censor material in accordance with their own laws or to adopt measures to prohibit or limit the importation of material for reasons of public security or order.

ARTICLE VI

Each of the contracting States shall send to the United Nations Educational, Scientific and Cultural Organization a copy of each certificate which it issues to material originating within its own territory and shall inform the United Nations Educational, Scientific and Cultural Organization of the decisions taken and the reasons for any refusals in respect of certified materials from other contracting States for which entry is sought into its own territory. The United Nations Educational, Scientific and Cultural Organization shall communicate this information to all contracting States and shall maintain and publish in English and French catalogues of material showing all the certifications and decisions made in respect of them.

ARTICLE VII

The contracting States undertake jointly to consider means of reducing to a minimum the restrictions that are not removed by the present Agreement which might interfere with the international circulation of the material referred to in article I.

ARTICLE VIII

Each contracting State shall communicate to the United Nations Educational, Scientific and Cultural Organization, within the period of six months following the coming into force of the present Agreement the measures taken in their respective territories to ensure the execution of the provisions of the present Agreement. The United Nations Educational, Scientific and Cultural Organization shall communicate this information as it receives it to all contracting States.

ARTICLE IX

1. All disputes arising out of the interpretation or application of the present Agreement between States which are both parties to the Statute of the International Court of Justice,[2] except as to Articles IV and V, shall be referred to the International Court of Justice unless in any specific case it is agreed by the parties to have recourse to another mode of settlement.

2. If the contracting States between which a dispute has arisen are not parties or any one of them is not party to the Statute of the International Court of Justice, the dispute shall, if the States concerned so desire, be submitted, in accordance with the constitutional rules of each of them, to an arbitral tribunal established in conformity with the Convention for the Pacific Settlement of International Disputes signed at The Hague on 18 October 1907,[3] or to any other arbitral tribunal.

ARTICLE X

The present Agreement is open to acceptance by the signatory States. The instrument of acceptance shall be deposited with the Secretary-General of the United Nations who shall notify all the Members of the United States of each deposit and the date thereof.

ARTICLE XI

1. On or after 1 January 1950 any Member of the United Nations not a signatory to the present Agreement, and any non-member State to which a certified copy of the present Agreement has been communicated by the Secretary-General of the United Nations, may accede to it.

2. The instrument of accession shall be deposited with the Secretary-General of the United Nations, who shall notify all the Members of the United Nations and the non-Member States, referred to in the preceding paragraph, of each deposit and the date thereof.

ARTICLE XII

1. The present Agreement shall come into force ninety days after the Secretary-General of the United Nations has received at least ten instruments of acceptance or accession in accordance with article X or article XI. As soon as possible thereafter the Secretary-General shall draw up a *proces-verbal* specifying the date on which,

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[2] TS 993; 59 Stat. 1055.

[3] TS 536; 36 Stat. 2199.

in accordance with this paragraph, the present Agreement shall have come into force.

2. In respect of each State on behalf of which an instrument of acceptance or accession is subsequently deposited, the present Agreement shall come into force ninety days after the date of the deposit of such instrument.

3. The present Agreement shall be registered with the Secretary-General of the United Nations on the day of its entry into force in accordance with article 102 of the Charter[4] and the regulations made thereunder by the General Assembly.

ARTICLE XIII

1. The present Agreement may be denounced by any contracting State after the expiration of a period of three years from the date on which it comes into force in respect of that particular State.

2. The denunciation of the Agreement by any contracting States shall be effected by a written notification addressed by that State to the Secretary-General of the United Nations who shall notify all the Members of the United Nations and all non-member States referred to in article XI of each notification and the date of the receipt thereof.

3. The denunciation shall take effect one year after the receipt of the notification by the Secretary-General of the United Nations.

ARTICLE XIV

1. Any contracting State may declare, at the time of signature, acceptance, or accession, that in accepting the present Agreement it is not assuming any obligation in respect of all or any territories, for which such contracting State has international obligations. The present Agreement shall, in that case, not be applicable to the territories named in the declaration.

2. The contracting States in accepting the present Agreement do not assume responsibility in respect of any or all Non-Self-Governing territories for which they are responsible but may notify the acceptance of the Agreement by any or all of such territories at the time of acceptance by such contracting States or at any time thereafter. The present Agreement shall, in such cases, apply to all the territories named in the notification ninety days after the receipt thereof by the Secretary-General of the United Nations.

3. Any contracting State may at any time after the expiration of the period of three years provided for in article XIII declare that it desires the present Agreement to cease to apply to all or any territories for which such contracting State has international obligations or to any or all Non-Self-Governing territories for which it is responsible. The present Agreement shall, in that case, cease to apply to the territories named in the declaration six months after the receipt thereof by the Secretary-General of the United Nations.

4. The Secretary-General of the United Nations shall communicate to all the Members of the United Nations and to all non-member States referred to in article XI the declarations and notifi-

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[4] TS 993; 59 Stat. 1052.

cations received in virtue of the present article, together with the dates of the receipt thereof.

ARTICLE XV

Nothing in this Agreement shall be deemed to prohibt the contracting States from entering into agreements or arrangements with the United Nations or any of its specialized agencies which would provide for facilities, exemptions, privileges or immunities with respect to material emanating from or sponsored by the United Nations or by any of its specialized agencies.

ARTICLE XVI

The original of the present Agreement shall be deposited in the archives of the United Nations and shall be opened for signature at Lake Success on 15 July 1949 where it shall remain open for signature until 31 December 1949. Certified copies of the present Agreement shall be furnished by the Secretary-General of the United Nations to each of the Members of the United Nations and to such other Governments as may be designated by agreement between the Economic and Social Council of the United Nations and the Executive Board of the United Nations Educational, Scientific and Cultural Organization.

In witness whereof, the undersigned plenipotentiaries, having deposited their full powers found to be in due and proper form, sign the present Agreement in the English and French languages, each being equally authentic, on behalf of their respective Governments, on the dates appearing opposite their respective signatures.

b. Agreement on the Importation of Educational, Scientific and Cultural Materials (Florence Agreement) (with reservation)[1]

Agreement and protocol opened for signature at Lake Success November 22, 1950; signed on behalf of the United States of America June 24, 1959; ratification advised by the Senate of the United States of America February 23, 1960; ratified by the President of the United States of America October 14, 1966; ratification of the United States of America deposited with the Secretary General of the United Nations November 2, 1966; proclaimed by the President of the United States of America November 3, 1966; entered into force with respect to the United States of America November 2, 1966

Preamble

The contracting States,

Considering that the free exchange of ideas and knowledge and, in general, the widest possible dissemination of the diverse forms of self-expression used by civilizations are vitally important both for intellectual progress and international understanding, and consequently for the maintenance of world peace;

Considering that this interchange is accomplished primarily by means of books, publications and educational, scientific and cultural materials;

Considering that the Constitution of the United Nations Educational, Scientific and Cultural Organization urges co-operation between nations in all branches of intellectual activity, including "the exchange of publications, objects of artistic and scientific interest and other materials of information" and provides further that the Organization shall "collaborate in the work of advancing the mutual knowledge and understanding of peoples, though all means of mass communication and to that end recommend such international agreements as may be necessary to promote the flow of ideas by word and image";

Recognize that these aims will be effectively furthered by an international agreement facilitating the free flow of books, publications and educational, scientific and cultural materials; and

Have, therefore, agreed to the following provisions:

Article I

1. The contracting States undertake not to apply customs duties or other charges on, or in connection with, the importation of:

(*a*) Books, publications and documents, listed in annex A to this Agreement;

(*b*) Educational, scientific and cultural materials, listed in annexes B, C, D and E to this Agreement;

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[1] 17 UST 1835; TIAS 6129. For a list of states which are parties to the Agreement, see Department of State publication, *Treaties in Force.*

which are the products of another contracting State, subject to the conditions laid down in those annexes.

2. The provisions of paragraph 1 of this article shall not prevent any contracting State from levying on imported materials:

(*a*) Internal taxes or any other internal charges of any kind, imposed at the time of importation or subsequently, not exceeding those applied directly or indirectly to like domestic products;

(*b*) Fees and charges, other than customs duties, imposed by governmental authorities on, or in connexion with, importation, limited in amount to the approximate cost of the services rendered, and representing neither an indirect protection to domestic products nor a taxation of imports for revenue purposes.

ARTICLE II

1. The contracting States undertake to grant the necessary licences and/or foreign exchange for the importation of the following articles:

(*a*) Books and publications consigned to public libraries and collections and to the libraries and collections of public educational, research or cultural institutions;

(*b*) Official government publications, that is, official parliamentary and administrative documents published in their country of origin;

(*c*) Books and publications of the United Nations or any of its specialized agencies;

(*d*) Books and publications received by the United Nations Educational, Scientific and Cultural Organization and distributed free of charge by it or under its supervision;

(*e*) Publications intended to promote tourist travel outside the country of importation, sent and distributed free of charge;

(*f*) Articles for the blind:

(i) Books, publications and documents of all kinds in raised characters for the blind;

(ii) Other articles specially designed for the educational, scientific or cultural advancement of the blind, which are imported directly by institutions or organizations concerned with the welfare of the blind, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles.

2. The contracting States which at any time apply quantitative restrictions and exchange control measures undertake to grant, as far as possible, foreign exchange and licenses necessary for the importation of other educational, scientific or cultural materials, and particularly the materials referred to in the annexes to this Agreement.

ARTICLE III

1. The contracting States undertake to give every possible facility to the importation of educational, scientific or cultural materials, which are imported exclusively for showing at a public exhibition approved by the competent authorities of the importing country

and for subsequent re-exportation. These facilities shall include the granting of the necessary licenses and exemption from customs duties and internal taxes and charges of all kinds payable on importation, other than fees and charges corresponding to the approximate cost of services rendered.

2. Nothing in this article shall prevent the authorities of an importing country from taking such steps as may be necessary to ensure that the materials in question shall be re-exported at the close of their exhibition.

ARTICLE IV

The contracting States undertake that they will as far as possible:

(*a*) Continue their common efforts to promote by every means the free circulation of educational, scientific or cultural materials, and abolish or reduce any restrictions to that free circulation which are not referred to in this Agreement;

(*b*) Simplify the administrative procedure governing the importation of educational, scientific or cultural materials;

(*c*) Facilitate the expeditious and safe customs clearance of educational, scientific or cultural materials.

ARTICLE V

Nothing in this Agreement shall affect the right of contracting States to take measures, in conformity with their legislation, to prohibit or limit the importation, or the circulation after importation, of articles on grounds relating directly to national security, public order or public morals.

ARTICLE VI

This Agreement shall not modify or affect the laws and regulations of any contracting State or any of its international treaties, conventions, agreements or proclamations, with respect to copyright, trademarks or patents.

ARTICLE VII

Subject to the provisions of any previous conventions to which the contracting States may have subscribed for the settlement of disputes, the contracting States undertake to have recourse to negotiations or conciliation, with a view to settlement of any disputes regarding the interpretation or the application of this Agreement.

ARTICLE VIII

In case of a dispute between contracting States relating to the educational, scientific or cultural character of imported materials, the interested Parties may, by common agreement, refer it to the Director-General of the United Nations Educational, Scientific and Cultural Organization for an advisory opinion.

ARTICLE IX

1. This Agreement, of which the English and French texts are equally authentic, shall bear today's date and remain open for signature by all Member States of the United Nations Educational, Scientific and Cultural Organization, all Member States of the United Nations and any non-member State to which an invitation may have been addressed by the Executive Board of the United Nations Educational, Scientific and Cultural Organization.

2. The Agreement shall be ratified on behalf of the signatory States in accordance with their respective constitutional procedures.

3. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

ARTICLE X

The States referred to in paragraph 1 of article IX may accept this Agreement from 22 November 1950. Acceptance shall become effective on the deposit of a formal instrument with the Secretary-General of the United Nations.

ARTICLE XI

This Agreement shall come into force on the date on which the Secretary-General of the United Nations receives instruments of ratification or acceptance from ten States.

ARTICLE XII

1. The States Parties to this Agreement on the date of its coming into force shall each take all the necessary measures for its fully effective operation within a period of six months after that date.

2. For States which may deposit their instruments of ratification or acceptance after the date of the Agreement coming into force, these measures shall be taken within a period of three months from the date of deposit.

3. Within one month of the expiration of the periods mentioned in paragraphs 1 and 2 of this article, the contracting States to this Agreement shall submit a report to the United Nations Educational, Scientific and Cultural Organization of the measures which they have taken for such fully effective operation.

4. The United Nations Educational, Scientific and Cultural Organization shall transmit this report to all signatory States to this Agreement and to the International Trade Organization (provisionally, to its Interim Commission).

ARTICLE XIII

Any contracting State may, at the time of signature or the deposit of its instrument of ratification or acceptance, or at any time thereafter, declare by notification addressed to the Secretary-General of the United Nations that this Agreement shall extend to all or any of the territories for the conduct of whose foreign relations that contracting State is responsible.

ARTICLE XIV

1. Two years after the date of the coming into force of this Agreement, any contracting State may, on its own behalf or on behalf of any of the territories for the conduct of whose foreign relations that contracting State is responsible, denounce this Agreement by an instrument in writing deposited with the Secretary-General of the United Nations.

2. The denunciation shall take effect one year after the receipt of the instrument of denunciation.

ARTICLE XV

The Secretary-General of the United Nations shall inform the States referred to in paragraph 1 of Article IX, as well as the United Nations Educational, Scientific and Cultural Organization, and the International Trade Organization (provisionally, its Interim Commission), of the deposit of all the instruments of ratification and acceptance provided for in articles IX and X, as well as of the notifications and denunciations provided for respectively in articles XIII and XIV.

ARTICLE XVI

At the request of one-third of the contracting States to this Agreement, the Director-General of the United Nations Educational, Scientific and Cultural Organization shall place on the agenda of the next session of the General Conference of that Organization, the question of convoking a meeting for the revision of this Agreement.

ARTICLE XVII

Annexes A, B, C, D, and E, as well as the Protocol annexed to this Agreement are hereby made an integral part of this Agreement.

ARTICLE XVIII

1. In accordance with Article 102 of the Charter of the United Nations,[2] this Agreement shall be registered by the Secretary-General of the United Nations on the date of its coming into force.

2. IN FAITH WHEREOF the undersigned, duly authorized, have signed this Agreement on behalf of their respective Governments.

Done at Lake Success, New York, this twenty-second day of November one thousand nine hundred and fifty in a single copy, which shall remain deposited in the archives of the United Nations, and certified true copies of which shall be delivered to all the States referred to in paragraph 1 of article IX, as well as to the United Nations Educational, Scientific and Cultural Organization and to the International Trade Organization (provisionally, to its Interim Commission).

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[2] TS 993; 59 Stat. 1052.

ANNEX A

BOOKS, PUBLICATIONS AND DOCUMENTS

(i) Printed books.

(ii) Newspapers and periodicals.

(iii) Books and documents produced by duplicating processes other than printing.

(iv) Official government publications, that is, official, parliamentary and administrative documents published in their country of origin.

(v) Travel posters and travel literature (pamphlets, guides, timetables, leaflets and similar publications), whether illustrated or not, including those published by private commercial enterprises, whose purpose is to stimulate travel outside the country of importation.

(vi) Publications whose purpose is to stimulate study outside the country of importation.

(vii) Manuscripts, including typescripts.

(viii) Catalogues of books and publications, being books and publications offered for sale by publishers or booksellers established outside the country of importation.

(ix) Catalogues of films, recordings or other visual and auditory material of an educational, scientific or cultural character, being catalogues issued by or on behalf of the United Nations or any of its specialized agencies.

(x) Music in manuscript or printed form, or reproduced by duplicating processes other than printing.

(xi) Geographical, hydrographical or astronomical maps and charts.

(xii) Architectural, industrial or engineering plans and designs, and reproductions thereof, intended for study in scientific establishments or educational institutions approved by the competent authorities of the importing country for the purpose of duty-free admission of these types of articles.

(The exemptions provided by annex A shall not apply to:

(*a*) Stationery;

(*b*) Books, publications and documents (except catalogues, travel posters and travel literature referred to above) published by or for a private commercial enterprise, essentially for advertising purposes;

(*c*) Newspapers and periodicals in which the advertising matter is in excess of 70 per cent by space;

(*d*) All other items (except catalogues referred to above) in which the advertising matter is in excess of 25 per cent by space. In the case of travel posters and literature, this percentage shall apply only to private commercial advertising matter.)

ANNEX B

WORKS OF ART AND COLLECTORS' PIECES OF AN EDUCATIONAL, SCIENTIFIC OR CULTURAL CHARACTER

(i) Paintings and drawings, including copies, executed entirely by hand, but excluding manufactured decorated wares.

(ii) Hand-printed impressions, produced from hand-engraved or hand-etched blocks, plates or other material, and signed and numbered by the artist.

(iii) Original works of art of statuary or sculpture, whether in the round, in relief, or in intaglio, excluding mass-produced reproductions and works of conventional craftsmanship of a commercial character.

(iv) Collectors' pieces and objects or art consigned to public galleries, museums and other public institutions, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, not intended for resale.

(v) Collections and collectors' pieces in such scientific fields as anatomy, zoology, botany, mineralogy, palaeontology, archaeology and ethnography, not intended for resale.

(vi) Antiques, being articles in excess of 100 years of age.

ANNEX C

VISUAL AND AUDITORY MATERIALS OF AN EDUCATIONAL, SCIENTIFIC OR CULTURAL CHARACTER

(i) Films, filmstrips, microfilms, and slides of an educational, scientific or cultural character, when imported by organizations (including, at the discretion of the importing country, broadcasting organizations), approved by the competent authorities of the importing country for the purpose of duty-free admission of these types of articles, exclusively for exhibition by these organizations or by other public or private educational, scientific or cultural institutions or societies approved by the aforesaid authorities.

(ii) Newsreels (with or without sound track), depicting events of current news value at the time of importation, and imported in either negative form, exposed and developed, or positive form, printed and developed, when imported by organizations (including, at the discretion of the importing country, broadcasting organizations) approved by the competent authorities of the importing country for the purpose of duty-free admission of such films, provided that free entry may be limited to two copies of each subject for copying purposes.

(iii) Sound recordings of an educational, scientific or cultural character for use exclusively in public or private educational, scientific or cultural institutions or societies (including, at the discretion of the importing country, broadcasting organizations) approved by the competent authorities of the importing country for the purpose of duty-free admission of these types of articles.

(iv) Films, filmstrips, microfilms and sound recordings of an educational, scientific or cultural character produced by the United Nations or any of its specialized agencies.

(v) Patterns, models and wall charts for use exclusively for demonstrating and teaching purposes in public or private educational, scientific or cultural institutions approved by the competent authorities of the importing country for the purpose of duty-free admission of these types of articles.

ANNEX D

SCIENTIFIC INSTRUMENTS OR APPARATUS

Scientific instruments or apparatus, intended exclusively for educational purposes or pure scientific research, provided:

(*a*) That such scientific instruments or apparatus are consigned to public or private scientific or educational institutions approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, and used under the control and responsibility of these institutions;

(*b*) That instruments or apparatus of equivalent scientific value are not being manufactured in the country of importation.

ANNEX E

ARTICLES FOR THE BLIND

(i) Books, publications and documents of all kinds in raised characters for the blind.

(ii) Other articles specially designed for the educational, scientific or cultural advancement of the blind, which are imported directly by institutions or organizations concerned with the welfare of the blind, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles.

PROTOCOL ANNEXED TO THE AGREEMENT ON THE IMPORTATION OF EDUCATIONAL, SCIENTIFIC AND CULTURAL MATERIALS

The contracting States,

IN THE INTEREST OF facilitating the participation of the United States of America in the Agreement on the Importation of Educational, Scientific and Cultural Materials, have agreed to the following:

1. The United States of America shall have the option of ratifying this Agreement, under article IX, or of accepting it, under article X, with the inclusion of the reservation hereunder.

2. In the event of the United States of America becoming Party to this Agreement with the reservation provided for in the preceding paragraph 1, the provisions of that reservation may be invoked by the Government of the United States of America with regard to any of the contracting States to this Agreement, or by any contracting State with regard to the United States of America, provided that any measure imposed pursuant to such reservation shall be applied on a non-discriminatory basis.

(TEXT OF THE RESERVATION)

(a) If, as a result of the obligations incurred by a contracting State under this Agreement, any product covered by this Agreement is being imported into the territory of a contracting State in such relatively increased quantities and under such conditions as to cause or threaten serious injury to the domestic industry in that territory producing like or directly competitive products, the contracting State, under the conditions provided for by paragraph 2 above, shall be free, in respect of such product and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend, in whole or in part, any obligation under this Agreement with respect to such product.

(b) Before any contracting State shall take action pursuant to the provisions of paragraph (a) above, it shall give notice in writing to the United Nations Educational, Scientific and Cultural Organization as far in advance as may be practicable and shall afford the Organization and the contracting States which are Parties to this Agreement an opportunity to consult with it in respect of the proposed action.

(c) In critical circumstances where delay would cause damage which it would be difficult to repair, action under paragraph (a) above may be taken provisionally without prior consultation, on the condition that consultation be effected immediately after taking such action.

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G. FOREIGN ECONOMIC POLICY: TARIFF AND TRADE LAWS

CONTENTS

Page
1. International Trade Functions 223
    a. Reorganization Plan No. 3 of 1979 (Reorganization of Functions Relating to International Trade) 223
    b. Presidential Proclamation 4369 (Agreement on Trade Between the United States of America and the Socialist Republic of Romania) 228
    c. Presidential Proclamation 4560 (Agreement on Trade Relations Between the United States of America and the Hungarian People's Republic) 230
    d. Presidential Proclamation 4697 (Agreement on Trade Relations Between the United States of America and the People's Republic of China) 231
2. Hostage Return and Economic Relations with Iran 237
    a. Declaration of the Government of Algeria 237
    b. Settlement of Claims by the United States and Iran 242
3. The General Agreement on Tariffs and Trade 246
    a. The General Agreement on Tariffs and Trade (amended) 246
    b. International Antidumping Code 313
4. International Wheat Agreement 329
    a. Wheat Trade Convention, 1971 (amended) 329
    b. Food Aid Convention, 1980 345
    c. 1983 Protocols for Further Extension of the Wheat Trade Convention 1971 and the Food Aid Convention, 1980, Constituting the International Wheat Agreement, 1971 352
        1. Protocol for the Further Extension of the Wheat Trade Convention, 1971 352
        2. Protocol for the Further Extension of the Food Aid Convention, 1971 356

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1. International Trade Functions

a. Reorganization Plan No. 3 of 1979[1]

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, September 25, 1979, pursuant to the provisions of chapter 9 of title 5 of the United States Code

REORGANIZATION OF FUNCTIONS RELATING TO INTERNATIONAL TRADE

Section 1.[1] Office of the United States Trade Representative.

(a) The Office of the Special Representative for Trade Negotiations is redesignated the Office of the United States Trade Representative.

(b)(1) The Special Representative for Trade Negotiations is redesignated the United States Trade Representative (hereinafter referred to as the "Trade Representative"). The Trade Representative shall have primary responsibility, with the advice of the interagency organization established under section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872) (hereinafter referred to as the "Committee"), for developing, and for coordinating the implementation of, United States international trade policy, including commodity matters and, to the extent they are related to international trade policy, direct investment matters. The Trade Representative shall serve as the principal advisor to the President on international trade policy and shall advise the President on the impact of other policies of the United States Government on international trade.

(2) The Trade Representative shall have lead responsibility for the conduct of international trade negotiations, including commodity and direct investment negotiations in which the United States participates.

(3) To the extent necessary to assure the coordination of international trade policy, and consistent with any other law, the Trade Representative, with the advice of the Committee, shall issue policy guidance to departments and agencies on basic issues of policy and interpretation arising in the exercise of the following international trade functions. Such guidance shall determine the policy of the United States with respect to international trade issues arising in the exercise of such functions:

(A) matters concerning the General Agreement on Tariffs and Trade, including implementation of the trade agreements set forth in section 2(c) of the Trade Agreements Act of 1979; United States Government positions on trade and commodity matters dealt with by the Organization for Economic Cooperation and Development, the United Nations Conference on Trade and Development, and other multilateral organizations; and the assertion and protection of the rights of the United States under bilateral and multilateral international trade and commodity agreements:

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[1] With the exception of Sections 2(b)(1) and 5(b)(1), this Reorganization Plan became effective January 2, 1980.

(B) expansion of exports from the United States;

(C) policy research on international trade, commodity, and direct investment matters;

(D) to the extent permitted by law, overall United States policy with regard to unfair trade practices, including enforcement of countervailing duties and antidumping functions under section 303 and title VII of the Tariff Act of 1930;

(E) bilateral trade and commodity issues, including East-West trade matters; and

(F) international trade issues involving energy.

(4) All functions of the Trade Representative shall be conducted under the direction of the President.

(c) The Deputy Special Representatives for Trade Negotiations are redesignated Deputy United States Trade Representatives.

Sec. 2. Department of Commerce.

(a) The Secretary of Commerce (hereinafter referred to as the "Secretary") shall have, in addition to any other functions assigned by law, general operational responsibility for major nonagricultural international trade functions of the United States Government, including export development, commercial representation abroad, the administration of the antidumping and countervailing duty laws, export controls, trade adjustment assistance to firms and communities, research and analysis, and monitoring compliance with international trade agreements to which the United States is a party.

(b)(1)[2] There shall be in the Department of Commerce (hereinafter referred to as the "Department") a Deputy Secretary appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall receive compensation at the rate payable for Level II of the Executive Schedule, and shall perform such duties and exercise such powers as the Secretary may from time to time prescribe.

(2) The position of Under Secretary of Commerce established under section 1 of the Act of June 5, 1939 (ch. 180, 53 Stat. 808; 15 U.S.C. 1502) is abolished.

(c) There shall be in the Department an Under Secretary for International Trade appointed by the President, by and with the advice and consent of the Senate. The Under Secretary for International Trade shall receive compensation at the rate payable for Level III of the Executive Schedule, and shall perform such duties and exercise such powers as the Secretary may from time to time prescribe.

(d) There shall be in the Department two additional Assistant Secretaries appointed by the President, by and with the advice and consent of the Senate. Each such Assistant Secretary shall receive compensation at the rate payable for Level IV of the Executive Schedule, and shall perform such duties and exercise such powers as the Secretary may from time to time prescribe.

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[2] Pursuant to Executive Order 12175, December 7, 1979, 44 F.R. 70703, Sec. 2(b)(1) of this Plan became effective on that date.

Sec. 3. Export-Import Bank of the United States.

The Trade Representative and the Secretary shall serve, ex officio and without vote, as additional members of the Board of Directors of the Export-Import Bank of the United States.

Sec. 4. Overseas Private Investment Corporation.

(a) The Trade Representative shall serve, ex officio, as an additional voting member of the Board of Directors of the Overseas Private Investment Corporation. The Trade Representative shall be the Vice Chairman of such Board.

(b) There shall be an additional member of the Board of Directors of the Overseas Private Investment Corporation who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and who shall not be an official or employee of the Government of the United States. Such Director shall be appointed for a term of no more than three years.

Sec. 5. Transfer of Functions.

(a)(1) There are transferred to the Secretary all functions of the Secretary of the Treasury, the General Counsel of the Department of the Treasury, or the Department of the Treasury pursuant to the following:

(A) section 305(b) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(b)), to be exercised in consultation with the Secretary of the Treasury;

(B) section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862);

(C) section 303 and title VII (including section 771(1)) of the Tariff Act of 1930 (19 U.S.C. 1303, 1671 et seq.), except that the Customs Service of the Department of the Treasury shall accept such deposits, bonds, or other security as deemed appropriate by the Secretary, shall assess and collect such duties as may be directed by the Secretary, and shall furnish such of its important records or copies thereof as may be requested by the Secretary incident to the functions transferred by this subparagraph;

(D) sections 514, 515, and 516 of the Tariff Act of 1930 (19 U.S.C. 1514, 1515, and 1516) insofar as they relate to any protest, petition, or notice of desire to contest described in section 1002(b)(1) of the Trade Agreements Act of 1979;

(E) with respect to the functions transferred by subparagraph (C) of this paragraph, section 318 of the Tariff Act of 1930 (19 U.S.C. 1318), to be exercised in consultation with the Secretary of the Treasury;

(F) with respect to the functions transferred by subparagraph (C) of this paragraph, section 502(b) of the Tariff Act of 1930 (19 U.S.C. 1502(b)), and, insofar as it provides authority to issue regulations and disseminate information, to be exercised in consultation with the Secretary of the Treasury to the extent that the Secretary of the Treasury has responsibility under subparagraph (C), section 502(a) of such Act (19 U.S.C. 1502(a));

(G) with respect to the functions transferred by subparagraph (C) of this paragraph, section 617 of the Tariff Act of 1930 (19 U.S.C. 1617); and

(H) section 2632(e) of title 28 of the United States Code, insofar as it relates to actions taken by the Secretary reviewable under section 516A of the Tariff Act of 1930 (19 U.S.C. 1516(a)).

(2) The secretary shall consult with the Trade Representative regularly in exercising the functions transferred by subparagraph (C) of paragraph (1) of this subsection, and shall consult with the Trade Representative regarding any substantive regulation proposed to be issued to enforce such functions.

(b)(1) [3] There are transferred to the Secretary all trade promotion and commercial functions of the Secretary of State or the Department of State that are—

(A) performed in full-time overseas trade promotion and commercial positions; or

(B) performed in such countries as the President may from time to time prescribe.

(2) To carry out the functions transferred by paragraph (1) of this subsection, the President, to the extent he deems it necessary, may authorize the Secretary to utilize Foreign Service personnel authorities and to exercise the functions vested in the Secretary of State by the Foreign Service Act of 1946 (22 U.S.C. 801 et seq.) and by any other laws with respect to personnel performing such functions.

(c) There are transferred to the President all functions of the East-West Foreign Trade Board under section 411(c) of the Trade Act of 1974 (19 U.S.C. 2441 (c)).

(d) Appropriations available to the Department of State for Fiscal Year 1980 for representation of the United States concerning matters arising under the General Agreement on Tariffs and Trade and trade and commodity matters dealt with under the auspices of the United Nations Conference on Trade and Development are transferred to the Trade Representative.

(e) There are transferred to the interagency organization established under section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872) all functions of the East-West Foreign Trade Board under section 411 (a) and (b) of the Trade Act of 1974 (19 U.S.C. 2441 (a) and (b)).

Sec. 6. Abolition.

The East-West Foreign Trade Board established under section 411 of the Trade Act of 1974 (19 U.S.C 2441) is abolished.

Sec. 7. Responsibility of the Secretary of State.

Nothing in this reorganization plan is intended to derogate from the responsibility of the Secretary of State for advising the President on foreign policy matters, including the foreign policy aspects of international trade and trade-related matters.

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[3] This section became effective April 1, 1980.

Sec. 8. Incidental Transfers; Interim Officers.

(a) So much of the personnel, property, records, and unexpended balances, of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this reorganization plan as the Director of the Office of Management and Budget shall determine shall be transferred to the appropriate agency, organization, or component at such time or times as such Director shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation originally was made. The Director of the Office of Management and Budget shall provide for terminating the affairs of any agency abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of the reorganization plan.

(b) Pending the assumption of office by the initial officers provided for in section 2 of this reorganization plan, the functions of each such office may be performed, for up to a total of 60 days, by such individuals as the President may designate. Any individual so designated shall be compensated at the rate provided herein for such position.

Sec. 9. Effective Date.

The provisions of this reorganization plan shall take effect October 1, 1980, or at such earlier time or times as the President shall specify, but not sooner than the earliest time allowable under section 906 of title 5 of the United States Code.

b. Presidential Proclamation 4369, April 24, 1975, 40 F.R. 18389[1]

AGREEMENT ON TRADE RELATIONS BETWEEN THE UNITED STATES OF AMERICA AND THE SOCIALIST REPUBLIC OF ROMANIA

By the President of the United States of America

A Proclamation

Pursuant to the authority vested in me by the United States Constitution, I, as President of the United States of America, acting through duly empowered representatives, entered into negotiation with duly empowered representatives of the Socialist Republic of Romania looking toward the conclusion of an agreement governing trade relations between the United States of America and the Socialist Republic of Romania;

The aforesaid negotiations were conducted in accordance with the requirements of the Trade Act of 1974 (P.L. 93-618, January 3, 1975; 88 Stat. 1978);

An "Agreement on Trade Relations between the United States of America and the Socialist Republic of Romania," including the annexes thereto, in the English and Romanian languages, was signed on April 2, 1975, by duly empowered representatives of the Governments of the United States of America and the Socialist Republic of Romania, respectively, and is hereto annexed;[1]

The said Agreement is in conformity with the requirements relating to bilateral commercial agreements as specified in section 405(b) of the Trade Act of 1974 (88 Stat. 1978, 2061);

It is provided in Article XII of the said Agreement that it shall enter into force on the date of exchange of written notices of acceptance by the Governments of the United States of America and the Socialist Republic of Romania; and

It is provided in section 405(c) of the Trade Act of 1974 (88 Stat. 1978, 2061) that a bilateral commercial agreement providing nondiscriminatory treatment to the products of countries heretofore denied such treatment, and a proclamation implementing such agreement, shall take effect only if approved by the Congress by the adoption of a concurrent resolution of approval, referred to in section 151 of the Trade Act of 1974 (88 Stat. 1978, 2001), of the extension of nondiscriminatory treatment to the products of the country concerned;

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes, including section 404(a) of the Trade Act of 1974, do hereby proclaim as follows:

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[1] Senate Concurrent Resolution 35, passed in the Senate on July 25, 1975, and in the House on July 28, 1975, approved the extension of this bilateral commercial agreement.

BEST COPY AVAILABLE

(1) This Proclamation shall become effective and said agreement shall enter into force according to its terms, and nondiscriminatory treatment shall be extended to the products of the Socialist Republic of Romania in accordance with the terms of the said Agreement, on the date of exchange of written notices of acceptance in accordance with Article XII of the said Agreement, all of the foregoing to follow the adoption by the House of Representatives and the Senate, in accordance with the procedures set forth in section 151 of the said Act, of a concurrent resolution of approval of the extension of nondiscriminatory treatment to the products of the Socialist Republic of Romania, to the end that the same and every part of the said Agreement may be observed and fulfilled with good faith by the United States of America and the citizens thereof and all other persons subject to the jurisdiction thereof as of the date of its entry into force; and

(2) General Headnote 3(e) of the Tariff Schedules of the United States is amended by deleting therefrom "Rumania" as of the effective date of this proclamation and a notice thereof shall be published in the Federal Register promptly thereafter.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of April, in the year of our Lord one thousand nine hundred seventy-five, and of the Independence of the United States of America the one hundred ninety-ninth.

c. Presidential Proclamation 4560, April 7, 1978, 43 F.R. 15125

AGREEMENT ON TRADE RELATIONS BETWEEN THE UNITED STATES OF AMERICA AND THE HUNGARIAN PEOPLE'S REPUBLIC

By the President of the United States of America

A Proclamation

As President of the United States of America, acting through my representatives, I entered into the negotiation of an agreement on trade relations between the United States of America and the Hungarian People's Republic with representatives of the Hungarian People's Republic;

The negotiations were conducted in accordance with the requirements of the Trade Act of 1974 (P.L. 93-618, January 3, 1975; 88 Stat. 1978) ("the Act");

An "Agreement on Trade Relations Between the United States of America and the Hungarian People's Republic," in English and Hungarian, was signed on March 17, 1978, by representatives of the two Governments, and is annexed to this Proclamation;

The Agreement conforms to the requirements relating to bilateral commercial agreements specified in Section 405(b) of the Act;

Article XI of the Agreement provides that it shall enter into force on the date of exchange of written notices of acceptance by the Governments of the United States of America and the Hungarian People's Republic; and

Section 405(c) of the Act provides that a bilateral commercial agreement and a proclamation implementing such agreement shall take effect only if approved by the Congress:

Now, THEREFORE, I, JIMMY CARTER, President of the United States of America, proclaim as follows:

(1) This Proclamation shall become effective, said Agreement shall enter into force according to its terms, and nondiscriminatory treatment shall be extended to the products of the Hungarian People's Republic in accordance with the terms of the said Agreement, on the date of exchange of written notices of acceptance in accordance with Article XI of the said Agreement; and

(2) General Headnote 3(e) of the Tariff Schedules of the United States is amended by deleting therefrom "Hungary" as of the effective date of this proclamation and a notice thereof shall be published in the FEDERAL REGISTER promptly thereafter.

IN WITNESS WHEREOF, I have signed this Proclamation this seventh day of April, in the year of our Lord one thousand nine hundred seventy-eight, and of the Independence of the United States of America the two hundred second.

JIMMY CARTER.

d. Presidential Proclamation 4697, October 23, 1979, 44 F.R. 61161

AGREEMENT ON TRADE RELATIONS BETWEEN THE UNITED STATES OF AMERICA AND THE PEOPLE'S REPUBLIC OF CHINA

By the President of the United States of America

A Proclamation

As President of the United States of America, acting through my representatives, I entered into the negotiation of an agreement on trade relations between the United States of America and the People's Republic of China with representatives of the People's Republic of China;

The negotiations were conducted in accordance with the requirements of the Trade Act of 1974 (P.L. 93–618, January 3, 1975; 88 Stat. 1978) ("the Act");

An "Agreement on Trade Relations between the United States of America and the People's Republic of China", in English and Chinese, was signed on July 7, 1979, by representatives of the two Governments, and is annexed to this Proclamation;

The Agreement conforms to the requirements relating to bilateral commercial agreements specified in section 405(b) of the Act;

Article X of the Agreement provides that it shall come into force on the date on which the Contracting Parties have exchanged notifications that each has completed the legal procedures necessary for this purpose; and

Section 405(c) of the Act provides that a bilateral commercial agreement and a proclamation implementing such agreement shall take effect only if approved by the Congress;

Now, THEREFORE, I, JIMMY CARTER, President of the United States of America, proclaim as follows:

(1) This Proclamation shall become effective, said Agreement shall enter into force according to its terms, and nondiscriminatory treatment shall be extended to the products of the People's Republic of China in accordance with the terms of the said Agreement, on the date on which the Contracting Parties have exchanged notifications that each has completed the legal procedures necessary for this purpose in accordance with Article X of the said Agreement

(2) General Headnote 3(e) of the Tariff Schedules of the United States is amended by deleting therefrom "China (any part of which may be under Communist domination or control)" and "Tibet" as of the effective date of this proclamation and a notice thereof shall be published in the FEDERAL REGISTER promptly thereafter.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of October, in the year of our Lord nineteen hundred and seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

JIMMY CARTER.

AGREEMENT ON TRADE RELATIONS BETWEEN THE UNITED STATES OF AMERICA AND THE PEOPLE'S REPUBLIC OF CHINA

The Government of the United States of America and the Government of the People's Republic of China;

Acting in the spirit of the Joint Communique on the Establishment of Diplomatic Relations between the United States of America and the People's Republic of China;

Desiring to enhance friendship between both peoples;

Wishing to develop further economic and trade relations between both countries on the basis of the principles of equality and mutual benefit as well as nondiscriminatory treatment;

Have agreed as follows:

Article I

1. The Contracting Parties undertake to adopt all appropriate measures to create the most favorable conditions for strengthening, in all aspects, economic and trade relations between the two countries so as to promote the continuous, long-term development of trade between the two countries.

2. In order to strive for a balance in their economic interests, the Contracting Parties shall make every effort to foster the mutual expansion of their reciprocal trade and to contribute, each by its own means, to attaining the harmonious development of such trade.

3. Commercial transactions will be effected on the basis of contracts between firms, companies and corporations, and trading organizations of the two countries. They will be concluded on the basis of customary international trade practice and commercial considerations such as price, quality, delivery and terms of payment.

Article II

1. With a view to establishing their trade relations on a nondiscriminatory basis, the Contracting Parties shall accord each other most-favored-nation treatment with respect to products originating in or destined for the other Contracting Party, i.e., any advantage, favor, privilege, or immunity they grant to like products originating in or destined for any other country or region, in all matters regarding:

(A) Customs duties and charges of all kinds applied to the import, export, re-export or transit of products, including the rules, formalities and procedures for collection of such duties and charges;

(B) Rules, formalities and procedures concerning customs clearance, transit, warehousing and transshipment of imported and exported products;

(C) Taxes and other internal charges levied directly or indirectly on imported or exported products or services;

(D) All laws, regulations and requirements affecting all aspects of internal sale, purchase, transportation, distribution or use of imported products; and

(E) Administrative formalities for the issuance of import and export licenses.

2. In the event either Contracting Party applies quantitative restrictions to certain products originating in or exported to any third country or region, it shall afford to all like products originating in or exported to the other country treatment which is equitable to that afforded to such third country or region.

3. The Contracting Parties note, and shall take into consideration in the handling of their bilateral trade relations, that, at its current state of economic development, China is a developing country.

4. The principles of Paragraph 1 of this Article will be applied by the Contracting Parties in the same way as they are applied under similar circumstances under any multilateral trade agreement to which either Contracting Party is a party on the date of entry into force of this Agreement.

5. The Contracting Parties agree to reciprocate satisfactorily concessions with regard to trade and services, particularly tariff and non-tariff barriers to trade, during the term of this Agreement.

Article III

For the purpose of promoting economic and trade relations between their two countries, the Contracting Parties agree to:

A. Accord firms, companies and corporations, and trading organizations of the other Party treatment no less favorable than is afforded to any third country or region;

B. Promote visits by personnel, groups and delegations from economic, trade and industrial circles; encourage commercial exchanges and contacts; and support the holding of fairs, exhibitions and technical seminars in each other's country;

C. Permit and facilitate, subject to their respective laws and regulations and in accordance with physical possibilities, the stationing of representatives, or the establishment of business offices, by firms, companies and corporations, and trading organizations of the other Party in its own territory; and

D. Subject to their respective laws and regulations and physical possibilities, further support trade promotions and improve all conveniences, facilities and related services for the favorable conduct of business activities by firms, companies and corporations, and trading organizations of the two countries, including various facilities in respect of office space and residential housing, telecommunications, visa issuance, internal business travel, customs formalities for entry and re-export of personal effects, office articles and commercial samples, and observance of contracts.

Article IV

The Contracting Parties affirm that government trade offices contribute importantly to the development of their trade and economic relations. They agree to encourage and support the trade promotion activities of these offices. Each Party undertakes to provide facilities as favorable as possible for the operation of these offices in accordance with their respective physical possibilities.

Article V

1. Payments for transactions between the United States of America and the People's Republic of China shall either be effected in freely convertible currencies mutually accepted by firms, companies and corporations, and trading organizations of the two countries, or made otherwise in accordance with agreements signed by and between the two parties to the transaction. Neither Contracting Party may impose restrictions on such payments except in time of declared national emergency.

2. The Contracting Parties agree, in accordance with their respective laws, regulations and procedures, to facilitate the availability of official export credits on the most favorable terms appropriate under the circumstances for transactions in support of economic and technological projects and products between firms, companies and corporations, and trading organizations of the two countries. Such credits will be the subject of separate arrangements by the concerned authorities of the two Contracting Parties.

3. Each Contracting Party shall provide, on the basis of most-favored-nation treatment, and subject to its respective laws and regulations, all necessary facilities for financial, currency and banking transactions by nationals, firms, companies and corporations, and trading organizations of the other Contracting Party on terms as favorable as possible. Such facilities shall include all required authorizations for international payments, remittances and transfers, and uniform application of rates of exchange.

4. Each Contracting Party will look with favor towards participation by financial institutions of the other country in appropriate aspects of banking services related to international trade and financial relations. Each Contracting Party will permit those financial institutions of the other country established in its territory to provide such services on a basis no less favorable than that accorded to financial institutions of other countries.

Article VI

1. Both Contracting Parties in their trade relations recognize the importance of effective protection of patents, trademarks and copyrights.

2. Both Contracting Parties agree that on the basis of reciprocity legal or natural persons of either Party may apply for registration of trademarks and acquire exclusive rights thereto in the territory of the other Party in accordance with its laws and regulations.

3. Both Contracting Parties agree that each Party shall seek, under its laws and with due regard to international practice, to ensure to legal or natural persons of the other Party protection of patents and trademarks equivalent to the patent and trademark protection correspondingly accorded by the other Party.

4. Both Contacting Parties shall permit and facilitate enforcement of provisions concerning protection of industrial property in contracts between firms, companies and corporations, and trading organizations of their respective countries, and shall provide

means, in accordance with their respective laws, to restrict unfair competition involving unauthorized use of such rights.

5. Both Contracting Parties agree that each Party shall take appropriate measures, under its laws and regulations and with due regard to international practice, to ensure to legal or natural persons of the other Party protection of copyrights equivalent to the copyright protection correspondingly accorded by the other Party.

Article VII

1. The Contracting Parties shall exchange information on any problems that may arise from their bilateral trade, and shall promptly hold friendly consultations to seek mutually satisfactory solutions to such problems. No action shall be taken by either Contracting Party before such consultations are held.

2. However, if consultations do not result in a mutually satisfactory solution within a reasonable period of time, either Contracting Party may take such measures as it deems appropriate. In an exceptional case where a situation does not admit any delay, either Contracting Party may take preventive or remedial action provisionally, on the condition that consultation shall be effected immediately after taking such action.

3. When either Contracting Party takes measures under this Article, it shall ensure that the general objectives of this Agreement are not prejudiced.

Article VIII

1. The Contracting Parties encourage the prompt and equitable settlement of any disputes arising from or in relation to contracts between their respective firms, companies and corporations, and trading organizations, through friendly consultations, conciliation or other mutually acceptable means.

2. If such disputes cannot be settled promptly by any one of the above-mentioned means, the parties to the dispute may have recourse to arbitration for settlement in accordance with provisions specified in their contracts or other agreements to submit to arbitration. Such arbitration may be conducted by an arbitration institution in the People's Republic of China, the United States of America, or a third country. The arbitration rules of procedure of the relevant arbitration institution are applicable, and the arbitration rules of the United Nations Commission on International Trade Law recommended by the United Nations, or other international arbitration rules, may also be used where acceptable to the parties to the dispute and to the arbitration institution.

3. Each Contracting Party shall seek to ensure that arbitration awards are recognized and enforced by their competent authorities where enforcement is sought, in accordance with applicable laws and regulations.

Article IX

The provisions of this Agreement shall not limit the right of either Contracting Party to take any action for the protection of its security interests.

Article X

1. This Agreement shall come into force on the date on which the Contracting Parties have exchanged notifications that each has completed the legal procedures necessary for this purpose, and shall remain in force for three years.

2. This Agreement shall be extended for successive terms of three years if neither Contracting Party notifies the other of its intent to terminate this Agreement at least 30 days before the end of a term.

3. If either Contracting Party does not have domestic legal authority to carry out its obligations under this Agreement, either Contracting Party may suspend application of this Agreement, or, with the agreement of the other Contracting Party, any part of this Agreement. In that event, the Parties will seek, to the fullest extent practicable in accordance with domestic law, to minimize unfavorable effects on existing trade relations between the two countries.

4. The Contracting Parties agree to consult at the request of either Contracting Party to review the operation of this Agreement and other relevant aspects of the relations between the two Parties.

In Witness Whereof; the authorized representatives of the Contracting Parties have signed this Agreement.

Done at Beijing in two original copies this seventh day of July, 1979, in English and Chinese, both texts being equally authentic.

Leonard Woodcock	Li Xiang
For The United States of America	For The People's Republic of China

2. Hostage Return and Economic Relations with Iran

a. Declaration of the Government of the Democratic and Popular Republic of Algeria

The Government of the Democratic and Popular Republic of Algeria, having been requested by the Governments of the Islamic Republic of Iran and the United States of America to serve as an intermediary in seeking a mutually acceptable resolution of the crisis in their relations arising out of the detention of the 52 United States nationals in Iran, has consulted extensively with the two governments as to the commitments which each is willing to make in order to resolve the crisis within the framework of the four points stated in the resolution of November 2, 1980, of the Islamic Consultative Assembly of Iran. On the basis of formal adherences received from Iran and the United States, the Government of Algeria now declares that the following interdependent commitments have been made by the two governments:

GENERAL PRINCIPLES

The undertakings reflected in this Declaration are based on the following general principles:

A. Within the framework of and pursuant to the provisions of the two Declarations of the Government of the Democratic and Popular Republic of Algeria, the United States will restore the financial position of Iran, in so far as possible, to that which existed prior to November 14, 1979. In this context, the United States commits itself to ensure the mobility and free transfer of all Iranian assets within its jurisdiction, as set forth in Paragraphs 4–9.

B. It is the purpose of both parties, within the framework of and pursuant to the provisions of the two Declarations of the Government of the Democratic and Popular Republic of Algeria, to terminate all litigation as between the Government of each party and the nationals of the other, and to bring about the settlement and termination of all such claims through binding arbitration. Through the procedures provided in the Declaration, relating to the Claims Settlement Agreement, the United States agrees to terminate all legal proceedings in the United States courts involving claims of United States persons and institutions against Iran and its state enterprises, to nullify all attachments and judgments obtained therein, to prohibit all further litigation based on such claims, and to bring about the termination of such claims through binding arbitration.

Point I. Non-Intervention in Iranian Affairs

1. The United States pledges that it is and from now on will be the policy of the United States not to intervene, directly or indirectly, politically or militarily, in Iran's internal affairs.

Points II and III. Return of Iranian Assets and Settlement of U.S. Claims

2. Iran and the United States (hereinafter "the parties") will immediately select a mutually agreeable central bank (hereinafter "the Central Bank") to act, under the instructions of the Government of Algeria and the Central Bank of Algeria (hereinafter "The Algerian Central Bank") as depositary of the escrow and security funds hereinafter prescribed and will promptly enter into depositary arrangements with the Central Bank in accordance with the terms of this declaration. All funds places in escrow with the Central Bank pursuant to this declaration shall be held in an account in the name of the Algerian Central Bank. Certain procedures for implementing the obligations set forth in this Declaration and in the Declaration of the Democratic and Popular Republic of Algeria concerning the settlement of claims by the Government of the United States and the Government of the Islamic Republic of Iran (hereinafter "the Claims Settlement Agreement") are separately set forth in certain Undertakings of the Government of the United States of America and the Government of the Islamic Republic of Iran with respect to the Declaration of the Democratic and Popular Republic of Algeria.

3. The depositary arrangement shall provide that, in the event that the Government of Algeria certifies to the Algerian Central Bank that the 52 U.S. nationals have safely departed from Iran, the Algerian Central Bank will thereupon instruct the Central Bank to transfer immediately all monies or other assets in escrow with the Central Bank pursuant to this declaration, provided that at any time prior to the making of such certification by the Government of Algeria, each of the two parties, Iran and the United States, shall have the right on seventy-two hours notice to terminate its commitments under this declaration.

If such notice is given by the United States and the foregoing certification is made by the Government of Algeria within the seventy-two hour period of notice, the Algerian Central Bank will thereupon instruct the Central Bank to transfer such monies and assets. If the seventy-two hour period of notice by the United States expires without such a certification having been made, or if the notice of termination is delivered by Iran, the Algerian Central Bank will thereupon instruct the Central Bank to return all such monies and assets to the United States, and thereafter the commitments reflected in this declaration shall be of no further force and effect.

ASSETS IN THE FEDERAL RESERVE BANK

4. Commencing upon completion of the requisite escrow arrangements with the Central Bank, the United States will bring about the transfer to the Central Bank of all gold bullion which is owned by Iran and which is in the custody of the Federal Reserve Bank of New York, together with all other Iranian assets (or the cash equivalent thereof) in the custody of the Federal Reserve Bank of New York, to be held by the Central Bank in escrow until such time as their transfer or return is required by Paragraph 3 above.

ASSETS IN FOREIGN BRANCHES OF U.S. BANKS

5. Commencing upon the completion of the requisite escrow arrangements with the Central Bank, the United States will bring about the transfer to the Central Bank, to the account of the Algerian Central Bank, of all Iranian deposits and securities which on or after November 14, 1979, stood upon the books of overseas banking offices of U.S. banks, together with interest thereon through December 31, 1980, to be held by the Central Bank, to the account of the Algerian Central Bank, in escrow until such time as their transfer or return is required in accordance with Paragraph 3 of this Declaration.

ASSETS IN U.S. BRANCHES OF U.S. BANKS

6. Commencing with the adherence by Iran and the United States to this declaration and the claims settlement agreement attached hereto, and followig the conclusion of arrangements with the Central Bank for the establishment of the interest-bearing security account specified in that agreement and Paragraph 7 below, which arrangements will be concluded within 30 days from the date of this Declaration, the United States will act to bring about the transfer to the Central Bank, within six months from such date, of all Iranian deposits and securities in U.S. banking institutions in the United States, together with interest thereon, to be held by the Central Bank in escrow until such time as their transfer or return is required by Paragraph 3.

7. As funds are received by the Central Bank pursuant to Paragraph 6 above, the Algerian Central Bank shall direct the Central Bank to (1) transfer one-half of each such receipt to Iran and (2) place the other half in a special interest-bearing security account in the Central Bank, until the balance in the security account has reached the level of $1 billion. After the $1 billion balance has been achieved, the Algerian Central Bank shall direct all funds received pursuant to Paragraph 6 to be transferred to Iran. All funds in the security account are to be used for the sole purpose of securing the payment of, and paying, claims against Iran in accordance with the claims settlement agreement. Whenever the Central Bank shall thereafter notify Iran that the balance in the security account has fallen below $500 million, Iran shall promptly make new deposits sufficient to maintain a minimum balance of $500 million in the account. The account shall be so maintained until the President of the Arbitral Tribunal established pursuant to the claims settlement agreement has certified to the Central Bank of Algeria that all arbitral awards against Iran have been satisfied in accordance with the claims settlement agreement, at which point any amount remaining in the security account shall be transferred to Iran.

OTHER ASSETS IN THE U.S. AND ABROAD

8. Commencing with the adherence of Iran and the United States to this declaration and the attached claims settlement agreement and the conclusion of arrangements for the establishment of the security account, which arrangements will be concluded within 30 days from the date of this Declaration, the United States will act to bring about the transfer to the Central Bank of all Iranian finan-

cial assets (meaning funds or securities) which are located in the United States and abroad, apart from those assets referred to in Paragraphs 5 and 6 above, to be held by the Central Bank in escrow until their transfer or return is required by Paragraph 3 above.

9. Commencing with the adherence by Iran and the United States to this declaration and the attached claims settlement agreement and the making by the Government of Algeria of the certification described in Paragraph 3 above, the United States will arrange, subject to the provisions of U.S. law applicable prior to November 14, 1979, for the transfer to Iran of all Iranian properties which are located in the United States and abroad and which are not within the scope of the preceding paragraphs.

NULLIFICATION OF SANCTIONS AND CLAIMS

10. Upon the making by the Government of Algeria of the certification described in Paragraph 3 above, the United States will revoke all trade sanctions which were directed against Iran in the period November 4, 1979, to date.

11. Upon the making by the Government of Algeria of the certification described in Paragraph 3 above, the United States will promptly withdraw all claims now pending against Iran before the International Court of Justice and will thereafter bar and preclude the prosecution against Iran of any pending or future claims of the United States or a United States national arising out of events occurring before the date of this declaration related to (A) the seizure of the 52 United States nationals on November 4, 1979, (B) their subsequent detention, (C) injury to United States property or property of the United States nationals within the United States Embassy compound in Tehran after November 3, 1979, and (D) injury to the United States nationals or their property as a result of popular movements in the course of the Islamic Revolution in Iran which were not an act of the Government of Iran. The United States will also bar and preclude the prosecution against Iran in the courts of the United States of any pending or future claim asserted by persons other than the United States nationals arising out of the events specified in the preceding sentence.

Point IV. Return of the Assets of the Family of the Former Shah

12. Upon the making by the Government of Algeria of the certification described in Paragraph 3 above, the United States will freeze, and prohibit any transfer of, property and assets in the United States within the control of the estate of the former Shah or of any close relative of the former Shah served as a defendant in U.S. litigation brought by Iran to recover such property and assets as belonging to Iran. As to any such defendant, including the estate of the former Shah, the freeze order will remain in effect unitl such litigation is finally terminated. Violation of the freeze order shall be subject to the civil and criminal penalties prescribed by U.S. law.

13. Upon the making by the Government of Algeria of the certification described in Paragraph 3 above, the United States will order all persons within U.S. jurisdiction to report to the U.S Treasury

within 30 days, for transmission to Iran, all information known to them, as of November 3, 1979, and as of the date of the order, with respect to the property and assets referred to in Paragraph 12. Violation of the requirement will be subject to the civil and criminal penalties prescribed by U.S. law.

14. Upon the making by the Government of Algeria of the certification described in Paragraph 3 above, the United States will make known, to all appropriate U.S. courts, that in any litigation of the kind described in Paragraph 12 above the claims of Iran should not be considered legally barred either by sovereign immunity principles or by the act of state doctrine and that Iranian decrees and judgments relating to such assets should be enforced by such courts in accordance with United States law.

15. As to any judgment of a U.S. court which calls for the transfer of any property or assets to Iran, the United States hereby guarantees the enforcement of the final judgment to the extent that the property or assets exist within the United States.

16. If any dispute arises between the parties as to whether the United States has fulfilled any obligation imposed upon it by Paragraphs 12–15, inclusive, Iran may submit the dispute to binding arbitration by the tribunal established by, and in accordance with the provisions of, the claims settlement agreement. If the tribunal determines that Iran has suffered a loss as a result of a failure by the United States to fulfill such obligation, it shall make an appropriate award in favor of Iran which may be enforced by Iran in the courts of any nation in accordance with its laws.

SETTLEMENT OF DISPUTES

17. If any other dispute arises between the parties as to the interpretation or performance of any provision of this declaration, either party may submit the dispute to binding arbitration by the tribunal established by, and by accordance with the provisions of, the claims settlement agreement. Any decision of the tribunal with respect to such dispute, including any award of damages to compensate for a loss resulting from a breach of this declaration or the claims settlement agreement, may be enforced by the prevailing party in the courts of any nation in accordance with its laws.

Initialed on January 19, 1981.

By WARREN M. CHRISTOPHER,
Deputy Secretary of State
of the Government of the United States.

By virtue of the powers vested in him by his Government as deposited with the Government of Algeria.

b. Declaration of the Government of the Democratic and Popular Republic of Algeria Concerning the Settlement of Claims by the Govenment of the United States of America and the Government of the Islamic Republic of Iran

The Government of the Democratic and Popular Republic of Algeria, on the basis of formal notice of adherence received from the Government of the Islamic Republic of Iran and the Government of the United States of America, now declares that Iran and the United States have agreed as follows:

ARTICLE I

Iran and the United States will promote the settlement of the claims described in Article II by the parties directly concerned. Any such claims not settled within six months from the date of entry into force of this agreement shall be submitted to binding third-party arbitration in accordance with the terms of this agreement. The aforementioned six months' period may be extended once by three months at the request of either party.

ARTICLE II

1. An International Arbitral Tribunal (the Iran-United States Claims Tribunal) is hereby established for the purpose of deciding claims of nationals of the United States against Iran and claims of nationals of Iran against the United States, and any counterclaim which arises out of the same contract, transaction or occurrence that constitutes the subject matter of that national's claim, if such claims and counterclaims are outstanding on the date of this agreement, whether or not filed with any court, and arise out of debts, contracts (including transactions which are the subject of letters of credit or bank guarantees), expropriations or other measures affecting property rights, excluding claims described in Paragraph 11 of the Declaration of the Government of Algeria of January 19, 1981, and claims arising out of the actions of the United States in response to the conduct described in such paragraph, and excluding claims arising under a binding contract between the parties specifically providing that any disputes thereunder shall be within the sole jurisdiction of the competent Iranian courts in response to the Majlis position.

2. The Tribunal shall also have jurisdiction over official claims of the United States and Iran against each other arising ot of contractual arrangements between them for the purchase and sale of goods and services.

3. The Tribunal shall have jurisdiction, as specified in Paragraphs 16–17 of the Declaration of the Government of Algeria of January 19, 1981, over any dispute as to the interpretation of performance of any provision of that declaration.

ARTICLE III

1. The Tribunal shall consist of nine members or such larger multiple of three as Iran and the United States may agree are necessary to conduct its business expeditiously. Within ninety days after the entry into force of this agreement, each government shall appoint one-third of the members. Within thirty days after their appointment, the members so appointed shall by mutual agreement select the remaining third of the members and appoint one of the remaining third President of the Tribunal. Claims may be decided by the full Tribunal or by a panel of three members of the Tribunal as the President shall determine. Each such panel shall be composed by the President and shall consist of one member appointed by each of the three methods set forth above.

2. Members of the Tribunal shall be appointed and the Tribunal shall conduct its business in accordance with the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL) except to the extent modified by the parties or by the Tribunal to ensure that this agreement can be carried out. The UNCITRAL rules for appointing members of three-member Tribunals shall apply *mutatis mutandis* to the appointment of the Tribunal.

3. Claims of nationals of the United States and Iran that are within the scope of this agreement shall be presented to the Tribunal either by claimants themselves, or, in the case of claims of less than $250,000, by the Government of such national.

4. No claim may be filed with the Tribunal more than one year after the entry into force of this agreement or six months after the date the President is appointed, whichever is later. These deadlines do not apply to the procedures contemplated by Paragraphs 16 and 17 of the Declaration of the Government of Algeria of January 19, 1981.

ARTICLE IV

1. All decisions and awards of the Tribunal shall be final and binding.

2. The President of the Tribunal shall certify, as prescribed in Paragraph 7 of the Declaration of the Government of Algeria of January 19, 1981, when all arbitral awards under this agreement have been satisfied.

3. Any award which the Tribunal may render against either government shall be enforceable against such government in the courts of any nation in accordance with its laws.

ARTICLE V

The Tribunal shall decide all cases on the basis of respect for law, applying such choice of law rules and principles of commercial and international law as the Tribunal determines to be applicable, taking into account relevant usages of the trade, contract provisions and changed circumstances.

ARTICLE VI

1. The seat of the Tribunal shall be The Hague, The Netherlands, or any other place agreed by Iran and the United States.

2. Each government shall designate an agent at the seat of the Tribunal to represent it to the Tribunal and to receive notices or other communications directed to it or to its nationals, agencies, instrumentalities, or entities in connection with proceedings before the Tribunal.

3. The expenses of the Tribunal shall be borne equally by the two governments.

4. Any question concerning the interpretation or application of this agreement shall be decided by the Tribunal upon the request of either Iran or the United States.

ARTICLE VII

For the purposes of this agreement:

1. A "national" of Iran or of the United States, as the case may be, means (a) a natural person who is a citizen of Iran or the United States; and (b) a corporation or other legal entity which is organized under the laws of Iran or the United States or any of its states or territories, the District of Columbia or the Commonwealth of Puerto Rico, if, collectively, natural persons who are citizens of such country hold, directly, or indirectly, an interest in such corporation or entity equivalent to fifty percent or more of its capital stock.

2. "Claims of nationals" of Iran or the United States, as the case may be, means claims owned continuously, from the date on which the claim arose to the date on which this agreement enters into force, by nationals of that state, including claims that are owned indirectly by such nationals through ownership of capital stock or other proprietary interests in juridical persons, provided that the ownership interests of such nationals, collectively, were sufficient at the time the claim arose to control the corporation or other entity, and provided, further, that the corporation or other entity is not itself entitled to bring a claim under the terms of this agreement. Claims referred to the Arbitral Tribunal shall, as of the date of filings of such claims with the Tribunal, be considered excluded from the jurisdiction of the courts of Iran, or of the United States, or of any other court.

3. "Iran" means the Government of Iran, any political subdivision of Iran, and any agency, instrumentality, or entity controlled by the Government of Iran or any political subdivision thereof.

4. The "United States" means the Government of the United States, any political subdivision of the United States, any agency, instrumentality or entity controlled by the Government of the United States or any political subdivision thereof.

ARTICLE VIII

This agreement shall enter into force when the Government of Algeria has received from both Iran and the United States a notification of adherence to the agreement.

Initialed on January 19, 1981.

By **Warren M. Christopher,**
Deputy Secretary of State
of the Government of the United States.

By virtue of the powers vested in him by his Government as deposited with the Government of Algeria.

3. The General Agreement on Tariffs and Trade

a. The General Agreement on Tariffs and Trade (amended)

CONTENTS

Page

Part I:

Article I—General Most-Favoured-Nation Treatment 249
Article II—Schedules of Concessions 250

Part II:

Article III—National Treatment on Internal Taxation and Regulation 252
Article IV—Special Provisions Relating to Cinematograph Films 253
Article V—Freedom of Transit 254
Article VI—Anti-dumping and Countervailing Duties 255
Article VII—Valuation for Customs Purposes 257
Article VIII—Fees and Formalities connected with Importation and Exportation 258
Article IX—Marks of Origin 259
Article X—Publication and Administration of Trade Regulations 260
Article XI—General Elimination of Quantitative Restrictions 261
Article XII—Restrictions to Safeguard the Balance of Payments 262
Article XIII—Non-discriminatory Administration of Quantitative Restrictions 264
Article XIV—Exceptions to the Rule of Non-discrimination 266
Article XV—Exchange Arrangements 267
Article XVI—Subsidies 268
  Section A—Subsidies in General 268
  Section B—Additional Provisions on Export Subsidies 269
Article XVII—State Trading Enterprises 269
Article XVIII—Governmental Assistance to Economic Development 271
  Section A 272
  Section B 272
  Section C 275
  Section D 277
Article XIX—Emergency Action on Imports of Particular Products 277
Article XX—General Exceptions 278
Article XXI—Security Exceptions 279
Article XXII—Consultation 279
Article XXIII—Nullification or Impairment 280

Part III:

Article XXIV—Territorial Application—Frontier Traffic—Customs Unions and Free-trade Areas 281
Article XXV—Joint Action by the Contracting Parties 283
Article XXVI—Acceptance, Entry Into Force and Registration 284
Article XXVII—Withholding or Withdrawal of Concessions 285
Article XXVIII—Modification of Schedules 285
Article XXVIII Bis—Tariff Negotiations 287
Article XXIX—The Relation of This Agreement to the Havana Charter 288
Article XXX—Amendments 288
Article XXXI—Withdrawal 289
Article XXXII—Contracting Parties 289
Article XXXIII—Accession 289
Article XXXIV—Annexes 290
Article XXXV—Non-application of the Agreement Between Particular Contracting Parties 290

Part IV—Trade and Development:

Article XXXVI—Principles and Objectives 290
Article XXXVII—Commitments 291
Article XXXVIII—Joint Action 293

Annexes A to G—Relating to Article I 294
Annex H—Relating to Article XXVI 296
Annex I—Notes and Supplementary Provisions 297
Protocol of Provisional Application of the General Agreement on Tariffs and Trade 311

a. The General Agreement on Tariffs and Trade[1] (amended)[2]

Concluded at Geneva, Switzerland, October 30, 1947; entered into force for the United States January 1, 1948[3]

The Governments of the COMMONWEALTH OF AUSTRALIA, the KINGDOM OF BELGIUM, the UNITED STATES OF BRAZIL, BURMA, CANADA, CEYLON, the REPUBLIC OF CHILE, the REPUBLIC OF CHINA, the REPUBLIC OF CUBA, the CZECHOSLOVAK REPUBLIC, the FRENCH REPUBLIC, INDIA, LEBANON, the GRAND-DUCHY OF LUXEMBOURG, the KINGDOM OF THE NETHERLANDS, NEW ZEALAND, the KINGDOM OF NORWAY, PAKISTAN, SOUTHERN RHODESIA, SYRIA, the UNION OF SOUTH AFRICA, the UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and the UNITED STATES OF AMERICA:

Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, developing the full use of the resources of the world and expanding the production and exchange of goods.

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[1] 61 Stat. part (5) and (6); TIAS 1700; 4 Bevans 639; 55–61 UNTS. The abbreviation "GATT" is used in the footnotes in referring to the General Agreement on Tariffs and Trade. The General Agreement is reproduced here as amended by various protocols, including those parts of the protocol Amending the Preamble and Parts II and III and the Proces-Verbal of Rectification concerning that Protocol which became effective for two-thirds of the contracting parties, including the United States, on Oct. 7, 1957, and Feb. 15, 1961 (Article XIV). The remaining amendments contained in the Protocol Amending the Preamble and Parts II and III and the amendments in the Protocol Amending Part I and Articles XXIX and XXX and the Protocol of Organizational Amendments, which are not in force for any contracting party have not been incorporated in this text.

[2] The nine protocols modifying the GATT are as follows:

(a) Protocol modifying certain provisions of the general agreement. Dated at Habana March 24, 1948; entered into force for the United States April 15, 1948. 62 Stat. 1992; TIAS 1763; 4 Bevans 708; 62 UNTS 30.

(b) Special protocol modifying art. XIV of the general agreement. Dated at Habana March 24, 1948; entered into force for the United States April 19, 1948. 62 Stat. 2000; TIAS 1764; 4 Bevans 712; 62 UNTS 40.

(c) Special protocol relating to art. XXIV of the general agreement. Signed at Habana March 24, 1948; entered into force for the United States June 7, 1948. 62 Stat. 2013; TIAS 1765; 4 Bevans 719; 62 UNTS 56.

(d) Protocol modifying Part II and art. XXVI of the general agreement. Signed at Geneva September 14, 1948; entered into force for the United States December 14, 1948, 62 Stat. 3679; TIAS 1890; 4 Bevans 769; 62 UNTS 80.

(e) Protocol modifying art. XXVI of the general agreement. Dated at Annecy August 13, 1949; entered into force for the United States March 28, 1950. 2 UST 1583; TIAS 2300; 62 UNTS 113.

(f) Protocol modifying Part I and art. XXIX of the general agreement. Signed at Geneva September 14, 1948; entered into force for the United States September 24, 1952. 3 UST 5355; TIAS 2744; 138 UNTS 334.

(g) Protocol amending the preamble and parts II and III of the general agreement. Done at Geneva March 10, 1955; entered into force for the United States October 7, 1957. 8 UST 1767; TIAS 3930; 278 UNTS 168.

(h) The GATT was amended December 3, 1955 (19 UST 4638; TIAS 6452; 278 UNTS 246).

(i) Protocol to introduce Part IV. Done at Geneva February 8, 1965; signed by the United States February 8, 1965; entered into force June 27, 1966. 17 UST 1977; TIAS 6139; 572 UNTS 320.

[3] For a list of states which are parties to the Agreement, see Department of State publication, *Treaties in Force.*

Being desirous of contributing to these objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international commerce,

Have through their Representatives agreed as follows:

PART I

ARTICLE I—GENERAL MOST-FAVOURED-NATION TREATMENT

1. With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to all matters referred to in paragraphs 2 and 4 of Article III, any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties.

2. The provisions of paragraph 1 of this Article shall not require the elimination of any preferences in respect of import duties or charges which do not exceed the levels provided for in paragraph 4 of this Article and which fall within the following descriptions:

(a) preferences in force exclusively between two or more of the territories listed in Annex A, subject to the conditions set forth therein;

(b) preferences in force exclusively between two or more territories which on July 1, 1939, were connected by common sovereignty or relations of protection or suzerainty and which are listed in Annexes B, C and D, subject to the conditions set forth therein;

(c) preferences in force exclusively between the United States of America and the Republic of Cuba;

(d) preferences in force exclusively between neighbouring countries listed in Annexes E and F.

3.[4] The provisions of paragraph 1 shall not apply to preferences between the countries formerly a part of the Ottoman Empire and detached from it on July 24, 1923, provided such preferences are approved under paragraph 5 of Article XXV,[5] which shall be applied in this respect in the light of paragraph 1 of Article XXIX.

4. The margin of preference on any product in respect of which a preference is permitted under paragraph 2 of this Article but is not specifically set forth as a maximum margin of preference in the appropriate Schedule annexed to this Agreement shall not exceed:

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[4] Added by Part A of Protocol Modifying Part I and Article XXIX of the GATT (3 UST 5856).

[5] Pending the entry into force of the Protocol Amending Part I and Articles XXIX and XXX, this reference to Article XXV actually reads "sub-paragraph 5(a) of article XXV," although paragraph 5 is no longer divided into sub-paragraphs (a), (b), etc., as was formerly the case. The present text of paragraph 5 was formerly sub-paragraph 5(a) of Article XXV.

(a) in respect of duties or charges on any product described in such Schedule, the difference between the most-favored-nation and preferential rates provided for therein; if no preferential rate is provided for, the preferential rate shall for the purposes of this paragraph be taken to be that in force on April 10, 1947, and, if no most-favoured-nation rate is provided for, the margin shall not exceed the difference between the most-favoured-nation and preferential rates existing on April 10, 1947;

(b) in respect of duties or charges on any product not described in the appropriate Schedule, the difference between the most-favoured-nation and preferential rates existing on April 10, 1947.

In the case of the contracting parties named in Annex G, the date of April 10, 1947, referred to in sub-paragraphs (a) and (b) of this paragraph shall be replaced by the respective dates set forth in that Annex.

ARTICLE II—SCHEDULES OF CONCESSIONS

1. (a) Each contracting party shall accord to the commerce of the other contracting parties treatment no less favourable than that provided for in the appropriate Part of the appropriate Schedule annexed to this Agreement.

(b) The products described in Part I of the Schedule relating to any contracting party, which are the products of territories of other contracting parties, shall, on their importation into the territory to which the Schedule relates, and subject to the terms, conditions or qualifications set forth in that Schedule, be exempt from ordinary customs duties in excess of those set forth and provided for therein. Such products shall also be exempt from all other duties or charges of any kind imposed on or in connection with importation in excess of those imposed on the date of this Agreement or those directly and mandatorily required to be imposed thereafter by legislation in force in the importing territory on that date.

(c) The products described in Part II of the Schedule relating to any contracting party which are the products of territories entitled under Article I to receive preferential treatment upon importation into the territory to which the Schedule relates shall, on their importation into such territory, and subject to the terms, conditions or qualifications set forth in that Schedule, be exempt from ordinary customs duties in excess of those set forth and provided for in Part II of that Schedule. Such products shall also be exempt from all other duties or charges of any kind imposed on or in connection with importation in excess of those imposed on the date of this Agreement or those directly and mandatorily required to be imposed thereafter by legislation in force in the importing territory on that date. Nothing in this Article shall prevent any contracting party from maintaining its requirements existing on the date of this Agreement as to the eligibility of goods for entry at preferential rates of duty.

2. Nothing in this Article shall prevent any contracting party from imposing at any time on the importation of any product:

(a) a charge equivalent to an internal tax imposed consistently with the provisions of paragraph 2 of Article III in respect of the like domestic product or in respect of an article from which the imported product has been manufactured or produced in whole or in part;

(b) any anti-dumping or countervailing duty applied consistently with the provisions of Article VI;

(c) fees or other charges commensurate with the cost of services rendered.

3. No contracting party shall alter its method of determining dutiable value or of converting currencies so as to impair the value of any of the concessions provided for in the appropriate Schedule annexed to this Agreement.

4. If any contracting party establishes, maintains or authorizes, formally or in effect, a monopoly of the importation of any product described in the appropriate Schedule annexed to this Agreement, such monopoly shall not, except as provided for in that Schedule or as otherwise agreed between the parties which initially negotiated the concession, operate so as to afford protection on the average in excess of the amount of protection provided for in that Schedule. The provisions of this paragraph shall not limit the use by contracting parties of any form of assistance to domestic producers permitted by other provisions of this Agreement.

5. If any contracting party considers that a product is not receiving from another contracting party the treatment which the first contracting party believes to have been contemplated by a concession provided for in the appropriate Schedule annexed to this Agreement, it shall bring the matter directly to the attention of the other contracting party. If the latter agrees that the treatment contemplated was that claimed by the first contracting party, but declares that such treatment cannot be accorded because a court or other proper authority has ruled to the effect that the product involved cannot be classified under the tariff laws of such contracting party so as to permit the treatment contemplated in this Agreement, the two contracting parties, together with any other contracting parties substantially interested, shall enter promptly into further negotiations with a view to a compensatory adjustment of the matter.

6. (a) The specific duties and charges included in the Schedules relating to contracting parties members of the International Monetary Fund, and margins of preference in specific duties and charges maintained by such contracting parties, are expressed in the appropriate currency at the par value accepted or provisionally recognized by the Fund at the date of this Agreement. Accordingly, in case this par value is reduced consistently with the Articles of Agreement of the International Monetary Fund by more than twenty per centum, such specific duties and charges and margins of preference may be adjusted to take account of such reduction; *Provided*, That the contracting parties (i.e., the contracting parties acting jointly as provided for in Article XXV) concur that such adjustments will not impair the value of the concessions provided for in the appropriate Schedule or elsewhere in this Agreement, due account being taken of all factors which may influence the need for, or urgency of, such adjustments.

(b) Similar provisions shall apply to any contracting party not a member of the Fund, as from the date on which such contracting party becomes a member of the Fund or enters into a special exchange agreement in pursuance of Article XV.

7. The Schedules annexed to this Agreement are hereby made an integral part of Part I of this Agreement.

PART II

ARTICLE III—NATIONAL TREATMENT ON INTERNAL TAXATION AND REGULATION [6]

1. The contracting parties recognize that internal taxes and other internal charges, and laws, regulations and requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of products, and internal quantitative regulations requiring the mixture, processing or use of products in specified amounts or proportions, should not be applied to imported or domestic products so as to afford protection to domestic production.

2. The products of the territory of any contracting party imported into the terriority of any other contracting party shall not be subject, directly or indirectly to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like domestic products. Moreover, no contracting party shall otherwise apply internal taxes or other internal charges to imported or domestic products in a manner contrary to the principles set forth in paragraph 1.

3. With respect to any existing tax which is inconsistent with the provisions of paragraph 2, but which is specifically authorized under a trade agreement, in force on April 10, 1947, in which the import duty on the taxed product is bound against increase, the contracting party imposing the tax shall be free to postpone the application of the provisions of paragraph 2 to such tax until such time as it can obtain release from the obligations of such trade agreement in order to permit the increase of such duty to the extent necessary to compensate for the elimination of the protective element of the tax.

4. The products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favorable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use. The provisions of this paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.

5. No contracting party shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation must be supplied

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[6] As amended and restated by the Protocol Modifying Part II and Article XXVI of GATT (62 Stat. 3679).

from domestic sources. Moreover, no contracting party shall otherwise apply internal quantitative regulations in a manner contrary to the principles set forth in paragraph 1.

6. The provisions of paragraph 5 shall not apply to any internal quantitative regulation in force in the territory of any contracting party on July 1, 1939, April 10, 1947, or March 24, 1948, at the option of that contracting party; *Provided,* That any such regulation which is contrary to the provisions of paragraph 5 shall not be modified to the detriment of imports and shall be treated as a customs duty for the purpose of negotiation.

7. No internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions shall be applied in such a manner as to allocate any such amount or proportion among external sources of supply.

8. (a) The provisions of this Article shall not apply to laws, regulations or requirements governing the procurement by governmental agencies of products purchased for governmental purposes and not with a view to commercial resale or with a view to use in the production of goods for commercial sale.

(b) The provisions of this Article shall not prevent the payment of subsidies exclusively to domestic producers, including payments to domestic producers derived from the proceeds of internal taxes or charges applied consistently with the provisions of this Article and subsidies effected through governmental purchases of domestic products.

9. The contracting parties recognize that internal maximum price control measures, even though conforming to the other provisions of this Article, can have effects prejudicial to the interests of contracting parties supplying imported products. Accordingly, contracting parties applying such measures shall take account of the interests of exporting contracting parties with a view to avoiding to the fullest practicable extent such prejudicial effects.

10. The provisions of this Article shall not prevent any contracting party from establishing or maintaining internal quantitative regulations relating to exposed cinematograph films and meeting the requirements of Article IV.

ARTICLE IV—SPECIAL PROVISIONS RELATING TO CINEMATOGRAPH FILMS

If any contracting party establishes or maintains internal quantitative regulations relating to exposed cinematograph films, such regulations shall take the form of screen quotas which shall conform to the following requirements:

(a) Screen quotas may require the exhibition of cinematograph films of national origin during a specified minimum proportion of the total screen time actually utilized, over a specified period of not less than one year, in the commercial exhibition of all films of whatever origin, and shall be computed on the basis of screen time per theatre per year or the equivalent thereof;

(b) With the exception of screen time reserved for films of national origin under a screen quota, screen time including that released by administrative action from screen time reserved for films of national origin, shall not be allocated formally or in effect among sources of supply;

(c) Notwithstanding the provisions of sub-paragraph (b) of this Article, any contracting party may maintain screen quotas conforming to the requirements of sub-paragraph (a) of this Article which reserve a minimum proportion of screen time for films of a specified origin other than that of the contracting party imposing such screen quotas; *Provided,* That no such minimum proportion of screen time shall be increased above the level in effect on April 10, 1947;

(d) Screen quotas shall be subject to negotiation for their limitation, liberalization or elimination.

ARTICLE V—FREEDOM OF TRANSIT

1. Goods (including baggage), and also vessels and other means of transport, shall be deemed to be in transit across the territory of a contracting party when the passage across such territory, with or without trans-shipment, warehousing, breaking bulk, or change in the mode of transport, is only a portion of a complete journey beginning and terminating beyond the frontier of the contracting party across whose territory the traffic passes. Traffic of this nature is termed in this Article "traffic in transit".

2. There shall be freedom of transit through the territory of each contracting party, via the routes most convenient for international transit, for traffic in transit to or from the territory of other contracting parties. No distinction shall be made which is based on the flag of vessels, the place of origin, departure, entry, exit or destination, or on any circumstances relating to the ownership of goods, of vessels or of other means of transport.

3. Any contracting party may require that traffic in transit through its territory be entered at the proper custom house, but, except in cases of failure to comply with applicable customs laws and regulations, such traffic coming from or going to the territory of other contracting parties shall not be subject to any unnecessary delays or restrictions and shall be exempt from customs duties and from all transit duties or other charges imposed in respect of transit, except charges for transportation of those commensurate with administrative expenses entailed by transit or with the cost of services rendered.

4. All charges and regulations imposed by contracting parties on traffic in transit to or from the territories of other contracting parties shall be reasonable, having regard to the conditions of the traffic.

5. With respect to all charges, regulations and formalities in connection with transit, each contracting party shall accord to traffic in transit to or from the territory of any other contracting party treatment no less favourable than the treatment accorded to traffic in transit to or from any third country.

6. Each contracting party shall accord to products which have been in transit through the territory of any other contracting party treatment no less favourable than that which would have been accorded to such products had they been transported from their place of origin to their destination without going through the territory of

such other contracting party. Any contracting party shall, however, be free to maintain its requirements of direct consignment existing on the date of this Agreement, in respect of any goods in regard to which such direct consignment is a requisite condition of eligibility for entry of the goods at preferential rates of duty or has relation to the contracting party's prescribed method of valuation for duty purposes.

7. The provisions of this Article shall not apply to the operation of aircraft in transit, but shall apply to air transit of goods (including baggage).

ARTICLE VI—ANTI-DUMPING AND COUNTERVAILING DUTIES [7]

1. The contracting parties recognize that dumping, by which products of one country are introduced into the commerce of another country at less than the normal value of the products, is to be condemned if it causes or threatens material injury to an established industry in the territory of a contracting party or materially retards the establishment of a domestic industry. For the purposes of this Article, a product is to be considered as being introduced into the commerce of an importing country at less than its normal value, if the price of the product exported from one country to another

(a) is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country, or,

(b) in the absence of such domestic price, is less than either

(i) the highest comparable price for the like product for export to any third country in the ordinary course of trade, or

(ii) the cost of production of the product in the country of origin plus a reasonable addition for selling cost and profit.

Due allowance shall be made in each case for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability.

2. In order to offset or prevent dumping, a contracting party may levy on any dumped product an anti-dumping duty not greater in amount than the margin of dumping in respect of such product. For the purposes of this Article, the margin of dumping is the price difference determined in accordance with the provisions of paragraph 1.

3. No countervailing duty shall be levied on any product of the territory of any contracting party imported into the territory of another contracting party in excess of an amount equal to the estimated bounty or subsidy determined to have been granted, directly or indirectly, on the manufacture, production or export of such product in the country of origin or exportation, including any special subsidy to the transportation of a particular product. The term "countervailing duty" shall be understood to mean a special duty levied for the purpose of offsetting any bounty or subsidy bestowed,

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[7] As amended and restated by Protocol Modifying Part II and Article XXVI of the GATT (62 Stat. 3679).

directly or indirectly, upon the manufacture, production or export of any merchandise.

4. No product of the territory or any contracting party imported into the territory of any other contracting party shall be subject to anti-dumping or countervailing duty by reason of the exemption of such product from duties or taxes borne by the like product when destined for consumption in the country of origin or exportation, or by reason of the refund of such duties or taxes.

5. No product of the territory of any contracting party imported into the territory of any other contracting party shall be subject to both anti-dumping and countervailing duties to compensate for the same situation of dumping or export subsidization.

6.[8] (a) No contracting party shall levy any anti-dumping or countervailing duty on the importation of any product of the territory of another contracting party unless it determines that the effect of the dumping or subsidization, as the case may be, is such as to cause or threaten material injury to an established domestic industry, or is such as to retard materially the establishment of a domestic industry.

(b) The contracting parties may waive the requirement of subparagraph (a) of this paragraph so as to permit a contracting party to levy an anti-dumping or countervailing duty on the importation of any product for the purpose of offsetting dumping or subsidization which causes or threatens material injury to an industry in the territory of another contracting party exporting the product concerned to the territory of the importing contracting party. The contracting parties shall waive the requirements of sub-paragraph (a) of this paragraph, so as to permit the levying of a countervailing duty, in cases in which they find that a subsidy is causing or threatening material injury to an industry in the territory of another contracting party exporting the product concerned to the territory of the importing contracting party.

(c) In exceptional circumstances, however, where delay might cause damage which would be difficult to repair, a contracting party may levy a countervailing duty for the purpose referred to in subparagraph (b) of this paragraph without the prior approval of the contracting parties; *Provided,* That such action shall be reported immediately to the contracting parties and that the countervailing duty shall be withdrawn promptly if the contracting parties disapprove.

7. A system for the stabilization of the domestic price or of the return to domestic producers of a primary commodity, independently of the movements of export prices, which results at times in the sale of the commodity for export at a price lower than the comparable price charged for the like commodity to buyers in the domestic market, shall be presumed not to result in material injury within the meaning of paragraph 6 if it is determined by consultation among the contracting parties substantially interested in the commodity concerned that:

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[8] As amended and restated by Part D of the Protocol Amending the Preamble and Parts II and III of the GATT (8 UST 1769).

(a) the system has also resulted in the sale of the commodity for export at a price higher than the comparable price charged for the like commodity to buyers in the domestic market, and

(b) the system is so operated, either because of the effective regulation of production, or otherwise, as not to stimulate exports unduly or otherwise seriously prejudice the interests of other contracting parties.

ARTICLE VII—VALUATION FOR CUSTOMS PURPOSES [9]

1. The contracting parties recognize the validity of the general principles of valuation set forth in the following paragraphs of this Article, and they undertake to give effect to such principles, in respect of all products subject to duties or other charges or restrictions on importation and exportation based upon or regulated in any manner by value. Moreover, they shall, upon a request by another contracting party review the operation of any of their laws or regulations relating to value for customs purposes in the light of these principles. The contracting parties may request from contracting parties reports on steps taken by them in pursuance of the provisions of this Article.

2. (a) The value for customs purposes of imported merchandise should be based on the actual value of the imported merchandise on which duty is assessed, or of like merchandise, and should not be based on the value of merchandise of national origin or on arbitrary or fictitious values.

(b) "Actual value" should be the price at which, at a time and place determined by the legislation of the country of importation, such or like merchandise is sold or offered for sale in the ordinary course of trade under fully competitive conditions. To the extent to which the price of such or like merchandise is governed by the quantity in a particular transaction, the price to be considered should uniformly be related to either (i) comparable quantities, or (ii) quantities not less favourable to importers than those in which the greater volume of the merchandise is sold in the trade between the countries of exportation and importation.

(c) When the actual value is not ascertainable in accordance with sub-paragraph (b) of this paragraph, the value for customs purposes should be based on the nearest ascertainable equivalent of such value.

3. The value for customs purposes of any imported product should not include the amount of any internal tax, applicable within the country of origin or export, from which the imported product has been exempted or has been or will be relieved by means of refund.

4. (a) Except as otherwise provided for in this paragraph, where it is necessary for the purposes of paragraph 2 of this Article for a contracting party to convert into its own currency a price expressed in the currency of another country, the conversion rate of exchange to be used shall be based, for each currency involved, on the par value as established pursuant to the Articles of Agreement

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[9] Paragraphs 1 and 2 as amended and restated by Part I of the Protocol Amending the Preamble and Parts I and II of the GATT (8 UST 1770).

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of the International Monetary Fund or on the rate of exchange recognized by the Fund, or on the par value established in accordance with a special exchange agreement entered into pursuant to Article XV of this Agreement.

(b) Where no such established par value and no such recognized rate of exchange exist, the conversion rate shall reflect effectively the current value of such currency in commercial transactions.

(c) The contracting parties, in agreement with the International Monetary Fund, shall formulate rules governing the conversion by contracting parties of any foreign currency in respect of which multiple rates of exchange are maintained consistently with the Articles of Agreement of the International Monetary Fund. Any contracting party may apply such rules in respect of such foreign currencies for the purposes of paragraph 2 of this Article as an alternative to the use of par values. Until such rules are adopted by the contracting parties, any contracting party may employ, in respect of any such foreign currency, rules of conversion for the purposes of paragraph 2 of this Article which are designed to reflect effectively the value of such foreign currency in commercial transactions.

(d) Nothing in this paragraph shall be construed to require any contracting party to alter the method of converting currencies for customs purposes which is applicable in its territory on the date of this Agreement, if such alteration would have the effect of increasing generally the amounts of duty payable.

5. The bases and methods for determining the value of products subject to duties or other charges or restrictions based upon or regulated in any manner by value should be stable and should be given sufficient publicity to enable traders to estimate, with a reasonable degree of certainty, the value for customs purposes.

ARTICLE VIII—FEES AND FORMALITIES CONNECTED WITH IMPORTATION AND EXPORTATION [10]

1. (a) All fees and charges of whatever character (other than import and export duties and other than taxes within the purview of Article III) imposed by contracting parties on or in connection with importation or exportation shall be limited in amount to the approximate cost of services rendered and shall not represent an indirect protection to domestic products or a taxation of imports or exports for fiscal purposes.

(b) The contracting parties recognize the need for reducing the number and diversity of fees and charges referred to in sub-paragraph (a).

(c) The contracting parties also recognize the need for minimizing the incidence and complexity of import and export formalities and for decreasing and simplifying import and export documentation requirements.

2. A contracting party shall, upon request by another contracting party or by the contracting parties, review the operation of its laws and regulations in the light of the provisions of this Article.

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[10] Paragraphs 1 and 2 as amended by Part F of the Protocol Amending the Preamble and Parts II and III of the GATT (8 UST 1770).

3. No contracting party shall impose substantial penalties for minor breaches of customs regulations or procedural requirements. In particular, no penalty in respect of any omission or mistake in customs documentation which is easily rectifiable and obviously made without fraudulent intent or gross negligence shall be greater than necessary to serve merely as a warning.

4. The provisions of this Article shall extend to fees, charges, formalities and requirements imposed by governmental authorities in connection with importation and exportation, including those relating to:

(a) consular transactions, such as consular invoices and certificates;
(b) quantitative restrictions;
(c) licensing;
(d) exchange control;
(e) statistical services;
(f) documents, documentation and certification;
(g) analysis and inspection; and
(h) quarantine, sanitation and fumigation.

ARTICLE IX—MARKS OF ORIGIN

1. Each contracting party shall accord to the products of the territories of other contracting parties treatment with regard to marking requirements no less favourable than the treatment accorded to like products of any third country.

2.[11] The contracting parties recognize that, in adopting and enforcing laws and regulations relating to marks of origin, the difficulties and inconveniences which such measures may cause to the commerce and industry of exporting countries should be reduced to a minimum, due regard being had to the necessity of protecting consumers against fraudulent or misleading indications.

3. Whenever it is administratively practicable to do so, contracting parties should permit required marks of origin to be affixed at the time of importation.

4. The laws and regulations of contracting parties relating to the marking of imported products shall be such as to permit compliance without seriously damaging the products, or materially reducing their value, or unreasonably increasing their cost.

5. As a general rule, no special duty or penalty should be imposed by any contracting party for failure to comply with marking requirements prior to importation unless corrective marking is unreasonably delayed or deceptive marks have been affixed or the required marking has been intentionally omitted.

6. The contracting parties shall co-operate with each other with a view to preventing the use of trade names in such manner as to misrepresent the true origin of a product, to the detriment of such distinctive regional or geographical names of products of the territory of a contracting party as are protected by its legislation. Each contracting party shall accord full and sympathetic consideration to such requests or representations as may be made by any other

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[11] Paragraph 2 inserted by Part G of the Protocol Amending the Preamble and Parts II and III of the GATT (8 UST 1771).

contracting party regarding the application of the undertaking set forth in the preceding sentence to names of products which have been communicated to it by the other contracting party.

ARTICLE X—PUBLICATION AND ADMINISTRATION OF TRADE REGULATIONS

1. Laws, regulations, judicial decisions and administrative rulings of general application, made effective by any contracting party, pertaining to the classification or the valuation of products for customs purposes, or to rates of duty, taxes or other charges, or to requirements, restrictions or prohibitions on imports or exports or on the transfer of payments therefor, or affecting their sale, distribution, transportation, insurance, warehousing, inspection, exhibition processing, mixing or other use, shall be published promptly in such a manner as to enable governments and traders to become acquainted with them. Agreements affecting international trade policy which are in force between the government or a governmental agency of any contracting party and the government or governmental agency of any other contracting party shall also be published. The provisions of this paragraph shall not require any contracting party to disclose confidential information which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private.

2. No measure of general application taken by any contracting party effecting an advance in a rate of duty or other charge on imports under an established and uniform practice, or imposing a new or more burdensome requirement, restriction or prohibition on imports, or on the transfer of payments therefor, shall be enforced before such measure has been officially published.

3. (a) Each contracting party shall administer in a uniform, impartial and reasonable manner all its laws, regulations, decisions and rulings of the kind described in paragraph 1 of this Article.

(b) Each contracting party shall maintain, or institute as soon as practicable, judicial, arbitral or administrative tribunals or procedures for the purpose, *inter alia*, of the prompt review and correction of administrative action relating to customs matters. Such tribunals or procedures shall be independent of the agencies entrusted with administrative enforcement and their decisions shall be implemented by, and shall govern the practice of, such agencies unless an appeal is lodged with a court or tribunal of superior jurisdiction within the time prescribed for appeals to be lodged by importers; *Provided*, That the central administration of such agency may take steps to obtain a review of the matter in another proceeding if there is good cause to believe that the decision is inconsistent with established principles of law or the actual facts.

(c) The provisions of sub-paragraph (b) of this paragraph, shall not require the elimination or substitution of procedures in force in the territory of a contracting party on the date of this Agreement which in fact provide for an objective and impartial review of administrative action even though such procedures are not fully or formally independent of the agencies entrusted with administrative enforcement. Any contracting party employing such procedures shall, upon request, furnish the contracting parties with full information thereon in order that they may determine whether such procedures conform to the requirements of this sub-paragraph.

ARTICLE XI—GENERAL ELIMINATION OF QUANTITATIVE RESTRICTIONS

1. No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licenses or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party.

2. The provisions of paragraph 1 of this Article shall not extend to the following:

(a) Export prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party;

(b) Import and export prohibitions or restrictions necessary to the application of standards or regulations for the classification, grading or marketing of commodities in international trade;

(c) Import restrictions on any agricultural or fisheries product, imported in any form, necessary to the enforcement of governmental measures which operate:

(i) to restrict the quantities of the like domestic product permitted to be marketed or produced, or, if there is no substantial domestic production of the like product, of a domestic product for which the imported product can be directly substituted; or

(ii) to remove a temporary surplus of the like domestic product, or, if there is no substantial domestic production of the like product, of a domestic product for which the imported product can be directly substituted, by making the surplus available to certain groups of domestic consumers free of charge or at prices below the current market level; or

(iii) to restrict the quantities permitted to be produced of any animal product the production of which is directly dependent, wholly or mainly, on the imported commodity, if the domestic production of that commodity is relatively negligible.

Any contracting party applying restrictions on the importation of any product pursuant to sub-paragraph (c) of this paragraph shall give public notice of the total quantity or value of the product permitted to be imported during a specified future period and of any change in such quantity or value. Moreover, any restrictions applied under (i) above shall not be such as will reduce the total of imports relative to the total of domestic production, as compared with the proportion which might reasonably be expected to rule between the two in the absence of restriction. In determining this proportion, the contracting party shall pay due regard to the proportion prevailing during a previous representative period and to any special factors which may have affected or may be affecting the trade in the product concerned.

ARTICLE XII—RESTRICTIONS TO SAFEGUARD THE BALANCE OF PAYMENTS[12]

1. Notwithstanding the provisions of paragraph 1 of Article XI, any contracting party, in order to safeguard for the external financial position and its balance of payments, may restrict the quantity or value of merchandise permitted to be imported, subject to the provisions of the following paragraphs of this Article.

2. (a) Import restrictions instituted, maintained or intensified by a contracting party under this article shall not exceed those necessary:

(i) to forestall the imminent threat of, or to stop, a serious decline in its monetary reserves, or

(ii) in the case of a contracting party with very low monetary reserves, to achieve a reasonable rate of increase in its reserves.

Due regard shall be paid in either case to any special factors which may be affecting the reserves of such contracting party or its need for reserves, including, where special external credits or other resources are available to it, the need to provide for the appropriate use of such credits or resources.

(b) Contracting parties applying restrictions under sub-paragraph (a) of this paragraph shall progressively relax them as such conditions improve, maintaining them only to the extent that the conditions specified in that sub-paragraph still justify their application. They shall eliminate the restrictions when conditions would no longer justify their institution or maintenance under that sub-paragraph.

3. (a) Contracting parties undertake, in carrying out their domestic policies, to pay due regard to the need for maintaining or restoring equilibrium in their balance of payments on a sound and lasting basis and to the desirability of avoiding an uneconomic employment of productive resources. They recognize that in order to achieve these ends, it is desirable so far as possible to adopt measures which expand rather than contract international trade.

(b) Contracting parties applying restrictions under this Article may determine the incidence of the restrictions on imports of different products or classes of products in such a way as to give priority to the importance of those products which are more essential.

(c) Contracting parties applying restrictions under this Article undertake:

(i) to avoid unnecessary damage to the commercial or economic interests of any other contracting party;

(ii) not to apply restrictions so as to prevent unreasonably the importation of any description of goods in minimum commercial quantities the exclusion of which would impair regular channels of trade; and

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[12] As amended and restated by Part of the Protocol Amending the Preamble and Parts II and III of the GATT (8 UST 1771).

(iii) not to apply restrictions which would prevent the importation of commercial samples or prevent compliance with patent, trade mark, copyright, or similar procedures.

(d) The contracting parties recognize that, as a result of domestic policies directed towards the achievement and maintenance of full and productive employment or towards the development of economic resources, a contracting party may experience a high level of demand for imports involving a threat to its monetary reserves of the sort referred to in paragraph 2(a) of this Article. Accordingly, a contracting party otherwise complying with the provisions of this Article shall not be required to withdraw or modify restrictions on the ground that a change in those policies would render unnecessary restrictions which it is applying under this Article.

4. (a) Any contracting party applying new restrictions or raising the general level of its existing restrictions by a substantial intensification of the measures applied under this Article shall immediately after instituting or intensifying such restrictions (or, in circumstances in which prior consultation is practicable, before doing so) consult with the contracting parties as to the nature of its balance of payments difficulties, alternative corrective measures which may be available, and the possible effect of the restrictions on the economies of other contracting parties.

(b) On a date to be determined by them, the contracting parties shall review all restriction still applied under this Article on that date. Beginning one year after that date, contracting parties applying import restrictions under this Article shall enter into consultations of the type provided for in sub-paragraph (a) of this paragraph with the contracting parties annually.

(c)(i) If, in the course of consultations with a contracting party under sub-paragraph (a) or (b) above, the contracting parties find that the restrictions are not consistent with the provisions of this Article or with those of Article XIII (subject to the provisions of Article XIV), they shall indicate the nature of the inconsistency and may advise that the restrictions be suitably modified.

(ii) If, however, as a result of the consultations, the contracting parties determine that the restrictions are being applied in a manner involving an inconsistency of a serious nature with the provisions of this Article or with those of Article XIII (subject to the provisions of Article XIV) and that damage to the trade of any contracting party is caused or threatened thereby, they shall so inform the contracting party applying the restrictions and shall make appropriate recommendations for securing conformity with such provisions within a specified period of time. If such contracting party does not comply with these recommendations within the specified period, the contracting parties may release any contracting party the trade of which is adversely affected by the restrictions from such obligations under this Agreement towards the contracting party applying the restrictions as they determine to be appropriate in the circumstances.

(d) The contracting parties shall invite any contracting party which is applying restrictions under this Article to enter into consultations with them at the request of any contracting party which can establish a *prima facie* case that the restrictions are inconsistent with the provisions of this Article or with those of Article XIII (subject to the provisions of Article XIV) and that its trade is adversely affected thereby. However, no such invitation shall be issued unless the contracting parties have ascertained that direct discussions between the contracting parties concerned have not been successful. If, as a result of the consultations with the contracting parties, no agreement is reached and they determine that the restrictions are being applied inconsistently with such provisions, and that damage to the trade of the contracting party initiating the procedure is caused or threatened thereby, they shall recommend the withdrawal or modification of the restrictions. If the restrictions are not withdrawn or modified within such time as the contracting parties may prescribe, they may release the contracting party initiating the procedure from such obligation under this Agreement towards the contracting party applying the restrictions as they determine to be appropriate in the circumstances.

(e) In proceeding under this paragraph, the contracting parties shall have due regard to any special external factors adversely affecting the export trade of the contracting party applying restrictions.

(f) Determinations under this paragraph shall be rendered expeditiously and, if possible, within sixty days of the initiation of the consultations.

5. If there is a persistent and widespread application of import restrictions under this Article, indicating the existence of a general disequilibrium which is restricting international trade, the contracting parties shall initiate discussions to consider whether other measures might be taken, either by those contracting parties the balances of payments of which are under pressure or by those the balances of payments of which are tending to be exceptionally favourable, or by any appropriate intergovernmental organization, to remove the underlying causes of the disequilibrium. On the invitation of the contracting parties, contracting parties shall participate in such discussions.

ARTICLE XIII—NON-DISCRIMINATORY ADMINISTRATION OF QUANTITATIVE RESTRICTIONS

1. No prohibition or restriction shall be applied by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation of any product destined for the territory of any other contracting party, unless the importation of the like product of all third countries or the exportation of the like product to all third countries is similarly prohibited or restricted.

2. In applying import restrictions to any product, contracting parties shall aim at a distribution of trade in such product approaching as closely as possible the shares which the various contracting parties might be expected to obtain in the absence of such restrictions, and to this end shall observe the following provisions:

(a) Wherever practicable, quotas representing the total amount of permitted imports (whether allocated among supplying countries or not) shall be fixed, and notice given of their amount in accordance with paragraph 3(b) of this Article;

(b) In cases in which quotas are not practicable, the restrictions may be applied by means of import licenses or permits without a quota;

(c) Contracting parties shall not, except for purposes of operating quotas allocated in accordance with subparagraph (d) of this paragraph, require that import licenses or permits be utilized for the importation of the product concerned from a particular country or source;

(d) In cases in which a quota is allocated among supplying countries, the contracting party applying the restrictions may seek agreement with respect to the allocation of shares in the quota with all other contracting parties having a substantial interest in supplying the product concerned. In cases in which this method is not reasonably practicable, the contracting party concerned shall allot to contracting parties having a substantial interest in supplying the product shares based upon the proportions, supplied by such contracting parties during a previous representative period, of the total quantity or value of imports of the product, due account being taken of any special factors which may have affected or may be affecting the trade in the product. No conditions or formalities shall be imposed which would prevent any contracting party from utilizing fully the share of any such total quantity or value which has been allotted to it, subject to importation being made within any prescribed period to which the quota may relate.

3. (a) In cases in which import licenses are issued in connection with import restrictions, the contracting party applying the restrictions shall provide, upon the request of any contracting party having an interest in the trade in the product concerned, all relevant information concerning the administration of the restrictions, the import licenses granted over a recent period and the distribution of such licenses among supplying countries; *Provided*, That there shall be no obligation to supply information as to the names of importing or supplying enterprises.

(b) In the case of import restrictions involving the fixing of quotas, the contracting party applying the restrictions shall give public notice of the total quantity or value of the product or products which will be permitted to be imported during a specified future period and of any change in such quantity or value. Any supplies of the product in question which were *en route* at the time at which public notice was given shall not be excluded from entry; *Provided*, That they may be counted so far as practicable, against the quantity permitted to be imported in the period in question, and also, where necessary, against the quantities permitted to be imported in the next following period or periods; and *Provided further*, That if any contracting party customarily exempts from such restrictions products entered for consumption or withdrawn from warehouse for consumption during a period of thirty days after the day of such public notice, such practice shall be considered full compliance with this sub-paragraph.

(c) In the case of quotas allocated among supplying countries, the contracting party applying the restrictions shall promptly inform all other contracting parties having an interest in supplying the product concerned of the shares in the quota currently allocated, by quantity or value, to the various supplying countries and shall give public notice thereof.

4. With regard to restrictions applied in accordance with paragraph 2(d) of this Article or under paragraph 2(c) of Article XI, the selection of a representative period for any product and the appraisal of any special factors affecting the trade in the product shall be made initially by the contracting party applying the restriction; *Provided*, That such contracting party shall, upon the request of any other contracting party having a substantial interest in supplying that product or upon the request of the contracting parties, consult promptly with the other contracting party or the contracting parties regarding the need for an adjustment of the proportion determined or of the base period selected, or for the reappraisal of the special factors involved, or for the elimination of conditions, formalities or any other provisions established unilaterally relating to the allocation of an adequate quota or its unrestricted utilization.

5. The provisions of this Article shall apply to any tariff quota instituted or maintained by any contracting party, and, in so far as applicable, the principles of this Article shall also extend to export restrictions.

ARTICLE XIV—EXCEPTIONS TO THE RULE OF NON-DISCRIMINATION [13]

1. A contracting party which applies restrictions under Article XII or under Section B of Article XVIII may, in the application of such restrictions, deviate from the provisions of Article XIII in a manner having equivalent effect to restrictions on payments and transfers for current international transactions that contracting party may at that time apply under Article VIII or XIV of the Articles of Agreement of the International Monetary Fund, or under analogous provisions of a special exchange agreement entered into pursuant to paragraph 6 of Article XV.

2. A contracting party which is applying import restrictions under Article XII or under Section B of Article XVIII may, with the consent of the contracting parties temporarily deviate from the provisions of Article XIII in respect of a small part of its external trade where the benefits to the contracting party or contracting parties concerned substantially outweigh any injury which may result to the trade of other contracting parties.

3. The provisions of Article XIII shall not preclude a group of territories having a common quota in the International Monetary Fund from applying against imports from other countries, but not among themselves, restrictions in accordance with the provisions of Article XII or of Section B of Article XVIII on condition that such restrictions are in all other respects consistent with the provisions of Article XIII.

4. A contracting party applying import restrictions under Article XII or under Section B of Article XVIII shall not be precluded by Articles XI to XV or Section B of Article XVIII of this Agreement

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[13] Text as amended February 15, 1961, on which date Annex J was deleted. Originally amended and restated by special Protocol Modifying Article XIV of the GATT (62 Stat. 3006). Further amended and restated by Part J of the Protocol Amending the Preamble and Parts II and III of the GATT (8 UST 1775).

from applying measures to direct its exports in such a manner as to increase its earnings of currencies which it can use without deviation from the provisions of Article XIII.

5. A contracting party shall not be precluded by Articles XI to XV, inclusive, or by Section B of Article XVIII, of this Agreement from applying quantitative restrictions:

(a) having equivalent effect to exchange restrictions authorized under Section 3(b) of Article VII of the Articles of Agreement of the International Monetary Fund, or

(b) under the preferential arrangements provided for in Annex A of this Agreement, pending the outcome of the negotiations referred to therein.

ARTICLE XV—EXCHANGE ARRANGEMENTS

1. The contracting parties shall seek co-operation with the International Monetary Fund to the end that the contracting parties and the Fund may pursue a coordinated policy with regard to exchange questions within the jurisdiction of the fund and questions of quantitative restrictions and other trade measures within the jurisdiction of the contracting parties.

2. In all cases in which the contracting parties are called upon to consider or deal with problems concerning monetary reserves, balances of payments or foreign exchange arrangements, they shall consult fully with the International Monetary Fund. In such consultations, the contracting parties shall accept all findings of statistical and other facts presented by the fund relating to foreign exchange, monetary reserves and balances of payments, and shall accept the determination of the Fund as to whether action by a contracting party in exchange matters is in accordance with the Articles of Agreement of the International Monetary Fund, or with the terms of a special exchange agreement between that contracting party and the contracting parties. The contracting parties, in reaching their final decision in cases involving the criteria set forth in paragraph 2(a) of Article XII or in paragraph 9[14] of Article XVIII, shall accept the determination of the Fund as to what constitutes a serious decline in the contracting party's monetary reserves, a very low level of its monetary reserves or a reasonable rate of increase in its monetary reserves, and as to the financial aspects of other matters covered in consultation in such cases.

3. The contracting parties shall seek agreement with the Fund regarding procedures for consultation under paragraph 2 of this Article.

4. Contracting parties shall not, by exchange action, frustrate the intent of the provisions of this Agreement, nor, by trade action, the intent of the provisions of the Articles of Agreement of the International Monetary Fund.

5. If the contracting parties consider, at any time, that exchange restrictions on payments and transfers in connection with imports are being applied by a contracting party in a manner inconsistent

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[14] References to paragraph 9 added by paragraph K of the Protocol Amending the Preamble and Parts II and III of the GATT (8 UST 1776).

with the exceptions provided for in this Agreement for quantitative restrictions, they shall report thereon to the Fund.

6. Any contracting party which is not a member of the fund shall, within a time to be determined by the contracting parties after consultation with the Fund, become a member of the Fund, or, failing that, enter into a special exchange agreement with the contracting parties. A contracting party which ceases to be a member of the fund shall forthwith enter into a special exchange agreement with the contracting parties. Any special exchange agreement entered into by a contracting party under this paragraph shall thereupon become part of its obligations under this Agreement.

7. (a) A special exchange agreement between a contracting party and the contracting parties under paragraph 6 of this Article shall provide to the satisfaction of the contracting parties that the objectives of this Agreement will not be frustrated as a result of action in exchange matters by the contracting party in question.

(b) The terms of any such agreement shall not impose obligations on the contracting party in exchange matters generally more restrictive than those imposed by the Articles of Agreement of the International Monetary Fund on members of the Fund.

8. A contracting party which is not a member of the Fund shall furnish such information within the general scope of section 5 of Article VIII of the Articles of Agreement of the International Monetary Fund as the contracting parties may require in order to carry out their functions under this Agreement.

9. Nothing in this Agreement shall preclude:[15]

(a) the use by a contracting party of exchange controls or exchange restrictions in accordance with the Articles of Agreement of the International Monetary Fund or with that contracting party's special exchange agreement with the contracting parties, or

(b) the use by a contracting party of restrictions or controls on imports or exports, the sole effect of which, additional to the effects permitted under Articles XI, XII, XIII and XIV, is to make effective such exchange controls or exchange restrictions.

ARTICLE XVI—SUBSIDIES

Section A—Subsidies in General

1. If any contracting party grants or maintains any subsidy, including any form of income or price support, which operates directly or indirectly to increase exports of any product from, or to reduce imports of any product into, its territory, it shall notify the contracting parties in writing of the extent and nature of the subsidization, of the estimated effect of the subsidization on the quantity of the affected product or products imported into or exported from its territory and of the circumstances making the subsidization necessary. In any case in which it is determined that serious prejudice to the interests of any other contracting party is caused or threat-

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[15] This clause as amended and restated by Part D of the Protocol Modifying Part II and Article XXVI of the GATT (62 Stat. 3683).

ened by any such subsidization, the contracting party granting the subsidy shall, upon request, discuss with the other contracting party or parties concerned, or with the contracting parties, the possibility of limiting the subsidization.

Section B—Additional Provisions on Export Subsidies [16]

2. The contracting parties recognize that the granting by a contracting party of a subsidy on the export of any product may have harmful effects for other contracting parties, both importing and exporting, may cause undue disturbance to their normal commercial interests, and may hinder the achievement of the objectives of this Agreement.

3. Accordingly, contracting parties should seek to avoid the use of subsidies on the export of primary products. If, however, a contracting party grants directly or indirectly any form of subsidy which operates to increase the export of any primary product from its territory, such subsidy shall not be applied in a manner which results in that contracting party having more than an equitable share of world export trade in that product, account being taken of the shares of the contracting parties in such trade in the product during a previous representative period, and any special factors which may have affected or may be affecting such trade in the product.

4. Further, as from 1 January 1958 or the earliest practicable date thereafter, contracting parties shall cease to grant either directly or indirectly any form of subsidy on the export of any product other than a primary product which subsidy results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market. Until 31 December 1957 no contracting party shall extend the scope of any such subsidization beyond that existing on 1 January 1955 by the introduction of new, or the extension of existing, subsidies.

5. The contracting parties shall review the operation of the provisions of this Article from time to time with a view to examining its effectiveness, in the light of actual experience, in promoting the objectives of this Agreement and avoiding subsidization seriously prejudicial to the trade or interests of contracting parties.

ARTICLE XVII—STATE TRADING ENTERPRISES [17]

1. (a) Each contracting party undertakes that if it establishes or maintains a State enterprise, wherever located, or grants to any enterprise, formally or in effect, exclusive or special privileges, such enterprise shall, in its purchases or sales involving either imports or exports, act in a manner consistent with the general principles of nondiscriminatory treatment prescribed in this Agreement for governmental measures affecting imports or exports by private traders.

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[16] This section added by Part L, of the Protocol Amending the Preamble and Parts II and III of the GATT (8 UST 1776).

[17] Sections 3 and 4 and the title to Article XVII added by Part M of the Protocol Amending the Preamble and Parts II and III of the GATT (8 UST 1777).

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(b) The provision of sub-paragraph (a) of this paragraph shall be understood to require that such enterprises shall, having due regard to the other provisions of this Agreement, make any such purchases or sales solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale, and shall afford the enterprises of the other contracting parties adequate opportunity, in accordance with customary business practice, to compete for participation in such purchases or sales.

(c) No contracting party shall prevent any enterprise (whether or not an enterprise described in sub-paragraph (a) of this paragraph) under its jurisdiction from acting in accordance with the principles of sub-paragraphs (a) and (b) of this paragraph.

2. The provisions of paragraph 1 of this article shall not apply to imports of products for immediate or ultimate consumption in governmental use and not otherwise for resale or use in the production of goods for sale. With respect to such imports, each contracting party shall accord to the trade of the other contracting parties fair and equitable treatment.

3.[17] The contracting parties recognize that enterprises of the kind described in paragraph 1(a) of this Article might be operated so as to create serious obstacles to trade; thus negotiations on a reciprocal and mutually advantageous basis designed to limit or reduce such obstacles are of importance to the expansion of international trade.

4.[17] (a) Contracting parties shall notify the contracting parties of the products which are imported into or exported from their territories by enterprises of the kind described in paragraph 1(a) of this Article.

(b) A contracting party establishing, maintaining or authorizing an import monopoly of a product, which is not the subject of a concession under Article II, shall, on the request of another contracting party having a substantial trade in the product concerned, inform the contracting parties of the import markup on the product during a recent representative period, or, when it is not possible to do so, of the price charged on the resale of the product.

(c) The contracting parties may, at the request of a contracting party which has reason to believe that its interests under this Agreement are being adversely affected by the operations of an enterprise of the kind described in paragraph 1(a), request the contracting party establishing, maintaining or authorizing such enterprise to supply information about its operations related to the carrying out of the provisions of this Agreement.

(d) The provisions of this paragraph shall not require any contracting party to disclose confidential information which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises.

ARTICLE XVIII—GOVERNMENTAL ASSISTANCE TO ECONOMIC DEVELOPMENT [18]

1. The contracting parties recognize that the attainment of the objectives of this Agreement will be facilitated by the progressive development of their economies, particularly of those contracting parties the economies of which can only support low standards of living and are in the early stages of development.

2. The contracting parties recognize further that it may be necessary for those contracting parties, in order to implement programmes and policies of economic development designed to raise the general standard of living of their people, to take protective or other measures affecting imports, and that such measures are justified in so far as they facilitate the attainment of the objectives of this Agreement. They agree, therefore, that those contracting parties should enjoy additional facilities to enable them (a) to maintain sufficient flexibility in their tariff structure to be able to grant the tariff protection required for the establishment of a particular industry and (b) to apply quantitative restrictions for balance of payments purposes in a manner which takes full account of the continued high level of demand for imports likely to be generated by their programmes of economic development.

3. The contracting parties recognize finally that with those additional facilities which are provided for in Sections A and B of this Article, the provisions of this Agreement would normally be sufficient to enable contracting parties to meet the requirements of their economic development. They agree, however, that there may be circumstances where no measure consistent with those provisions is practicable to permit a contracting party in the process of economic development to grant the governmental assistance required to promote the establishment of particular industries with a view to raising the general standard of living of its people. Special procedures are laid down in Sections C and D of this Article to deal with those cases.

4. (a) Consequently, a contracting party the economy of which can only support low standards of living and is in the early stages of development shall be free to deviate temporarily from the provisions of the other Articles of this Agreement, as provided in Sections A, B and C of this Article.

(b) A contracting party the economy of which is in the process of development but which does not come within the scope of sub-paragraph (a) above, may submit applications to the contracting parties under Section D of this Article.

5. The contracting parties recognize that the export earnings of contracting parties the economies of which are of the type described in paragraph 4 (a) and (b) above, and which depend on exports of a small number of primary commodities may be seriously reduced by a decline in the sale of such commodities. Accordingly, when the exports of primary commodities by such a contracting party are seriously affected by measures taken by another con-

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[18] As amended and restated by Part E of the Protocol Modifying Part II and Article XXVI of the GATT (62 Stat. 3684).

tracting party, it may have resort to the consultation provisions of Article XXII of this Agreement.

6. The contracting parties shall review annually all measures applied pursuant to the provisions of Sections C and D of this Article.

Section A

7. (a) If a contracting party coming within the scope of paragraph 4(a) of this Article considers it desirable, in order to promote the establishment of a particular industry with a view to raising the general standard of living of its people, to modify or withdraw a concession included in the appropriate Schedule annexed to this Agreement, it shall notify the contracting parties to this effect and enter into negotiations with any contracting party with which such concession was initially negotiated, and with any other contracting party determined by the contracting parties to have a substantial interest therein. If agreement is reached between such contracting parties concerned, they shall be free to modify or withdraw concessions under the appropriate Schedules to this Agreement in order to give effect to such agreement, including any compensatory adjustments involved.

(b) If agreement is not reached within sixty days after the notification provided for in sub-paragraph (a) above, the contracting party which proposes to modify or withdraw the concession may refer the matter to the contracting parties, which shall promptly examine it. If they find that the contracting party which proposes to modify or withdraw the concession has made every effort to reach an agreement and that the compensatory adjustment offered by it is adequate, that contracting party shall be free to modify or withdraw the concession if at the same time, it gives effect to the compensatory adjustment. If the contracting parties do not find that the compensation offered by a contracting party proposing to modify or withdraw the concession is adequate, but find that it has made every reasonable effort to offer adequate compensation, that contracting party shall be free to proceed with such modification or withdrawal. If such action is taken, any other contracting party referred to in sub-paragraph (a) above shall be free to modify or withdraw substantially equivalent concessions initially negotiated with the contracting party which has taken the action.

Section B

8. The contracting parties recognize that contracting parties coming within the scope of paragraph 4(a) of this Article tend, when they are in rapid process of development, to experience balance of payments difficulties arising mainly from efforts to expand their internal markets as well as from the instability in their terms of trade.

9. In order to safeguard its external financial position and to ensure a level of reserves adequate for the implementation of its programme of economic development, a contracting party coming within the scope of paragraph 4(a) of this Article may, subject to the provisions of paragraphs 10 to 12, control the general level of its imports by restricting the quantity or value of merchandise per-

mitted to be imported; *Provided* that the import restrictions instituted, maintained or intensified shall not exceed those necessary.

(a) to forestall the threat of, or to stop, a serious decline in its monetary reserves, or

(b) in the case of a contracting party with inadequate monetary reserves, to achieve a reasonable rate of increase in its reserves.

Due regard shall be paid in either case to any special factors which may be affecting the reserves of the contracting party or its need for reserves, including, where special external credits or other resources are available to it, the need to provide for the appropriate use of such credits or resources.

10. In applying these restrictions, the contracting party may determine their incidence on imports of different products or classes of products in such a way as to give priority to the importation of those products which are more essential in the light of its policy of economic development; *Provided* that the restrictions are so applied as to avoid unnecessary damage to the commercial or economic interests of any other contracting party and not to prevent unreasonably the importation of any description of goods in minimum commercial quantities the exclusion of which would impair regular channels of trade; and *Provided further* that the restrictions are not so applied as to prevent the importation of commercial samples or to prevent compliance with patent, trademark, copyright or similar procedures.

11. In carrying out its domestic policies, the contracting party concerned shall pay due regard to the need for restoring equilibrium in its balance of payments on a sound and lasting basis and to the desirability of assuring an economic employment of productive resources. It shall progressively relax any restrictions applied under this Section as conditions improve, maintaining them only to the extent necessary under the terms of paragraph 9 of this Article and shall eliminate them when conditions no longer justify such maintenance; *Provided* that no contracting party shall be required to withdraw or modify restrictions on the ground that a change in its development policy would render unnecessary the restrictions which it is applying under this Section.

12. (a) Any contracting party applying new restrictions or raising the general level of its existing restrictions by a substantial intensification of the measures applied under this Section, shall immediately after instituting or intensifying such restrictions (or, in circumstances in which prior consultation is practicable, before doing so) consult with the contracting parties as to the nature of its balance of payments difficulties, alternative corrective measures which may be available, and the possible effect of the restrictions on the economies of other contracting parties.

(b) On a date to be determined by them, the contracting parties shall review all restrictions still applied under this Section on that date. Beginning two years after that date, contracting parties applying restrictions under this Section shall enter into consultations of the type provided for in sub-paragraph (a) above with the contracting parties at intervals of approximately, but not less than, two years according to a programme to be drawn up each year by the contracting parties; *Provided* that no consultation under this sub-paragraph shall take place within two years after the conclusion of a consultation of a general nature under any other provision of this paragraph.

(c)(i) If, in the course of consultations with a contracting party under sub-paragraph (a) or (b) of this paragraph, the contracting parties find that the restrictions are not consistent with the provisions of this Section or with those of Article XIII (subject to the provisions of Article XIV), they shall indicate the nature of the inconsistency and may advise that the restrictions be suitably modified.

(ii) If, however, as a result of the consultations, the contracting parties determine that the restrictions are being applied in a manner involving an inconsistency of a serious nature with the provisions of this Section or with those of Article XIII (subject to the provisions of Article XIV) and that damage to the trade of any contracting party is caused or threatened thereby, they shall so inform the contracting party applying the restrictions and shall make appropriate recommendations for securing conformity with such provisions within a specified period. If such contracting party does not comply with these recommendations within the specified period, the contracting parties may release any contracting party the trade of which is adversely affected by the restrictions from such obligations under this Agreement towards the contracting parties applying the restrictions as they determine to be appropriate in the circumstances.

(d) The contracting parties shall invite any contracting party which is applying restrictions under this Section to enter into consultations with them at the request of any contracting party which can establish a *prima facie* case that the restrictions are inconsistent with the provisions of this Section or with those of Article XIII (subject to the provisions of Article XIV) and that its trade is adversely affected thereby. However, no such invitation shall be issued unless the contracting parties have ascertained that direct discussions between the contracting parties concerned have not been successful. If, as a result of the consultations with the contracting parties no agreement is reached and they determine that the restrictions are being applied inconsistently with such provisions, and that damage to the trade of the contracting party initiating the procedure is caused or threatened thereby, they shall recommend the withdrawal or modification of the restrictions. If the restrictions are not withdrawn or modified within such time as the contracting parties may prescribe, they may release the contracting party initiating the procedure from such obligations under this Agreement towards the contracting party applying the restrictions as they determine to be appropriate in the circumstances.

(e) If a contracting party against which action has been taken in accordance with the last sentence of sub-paragraph (c)(ii) or (d) of this paragraph, finds that the release of obligations authorized by the contracting parties adversely affects the operation of its programme and policy of economic development, it shall be free, not later than sixty days after such action is taken to give written notice to the Executive Secretary to the contracting parties of its intention to withdraw from this Agreement and such withdrawal shall take effect on the sixtieth day following the day on which the notice is received by him.

(f) In proceeding under this paragraph, the contracting parties shall have due regard to the factors referred to in paragraph 2 of this Article. Determinations under this paragraph shall be rendered expeditiously and, if possible, within sixty days of the initiation of the consultations.

Section C

13. If a contracting party coming within the scope of paragraph 4(a) of this Article finds that governmental assistance is required to promote the establishment of a particular industry with a view to raising the general standard of living of its people, but that no measure consistent with the other provisions of this Agreement is practicable to achieve that objective, it may have recourse to the provisions and procedures set out in this Section.

14. The contracting party concerned shall notify the contracting parties of the special difficulties which it meets in the achievement of the objective outlined in paragraph 13 of this Article and shall indicate the specific measure affecting imports which it proposes to introduce in order to remedy these difficulties. It shall not introduce that measure before the expiration of the time-limit laid down in paragraph 15 or 17, as the case may be, or if the measure affects imports of a product which is the subject of a concession included in the appropriate Schedule annexed to this Agreement, unless it has secured the concurrence of the contracting parties in accordance with the provisions of paragraph 18; *Provided* That, if the industry receiving assistance has already started production, the contracting party may, after informing the contracting parties, take such measures as may be necessary to prevent, during that period, imports of the product or products concerned from increasing substantially above a normal level.

15. If, within thirty days of the notification of the measure, the contracting parties do not request the contracting party concerned to consult with them, that contracting party shall be free to deviate from the relevant provisions of the other Articles of this Agreement to the extent necessary to apply the proposed measure.

16. If it is requested by the contracting parties to do so, the contracting party concerned shall consult with them as to the purpose of the proposed measure, as to alternative measures which may be available under this Agreement, and as to the possible effect of the measure proposed on the commercial and economic interests of other contracting parties. If, as a result of such consultation, the contracting parties agree that there is no measure consistent with the other provisions of this Agreement which is practicable in order to achieve the objective outlined in paragraph 13 of this Article, and concur in the proposed measure, the contracting party concerned shall be released from its obligations under the relevant provisions of the other Articles of this Agreement to the extent necessary to apply that measure.

17. If, within ninety days after the date of the notification of the proposed measure under paragraph 14 of this Article, the contracting parties have not concurred in such measure, the contracting

party concerned may introduce the measure proposed after informing the contracting parties.

18. If the proposed measure affects a product which is the subject of a concession included in the appropriate Schedule annexed to this Agreement, the contracting party concerned shall enter into consultations with any other contracting party with which the concession was initially negotiated, and with any other contracting party determined by the contracting parties to have a substantial interest therein. The contracting parties shall concur in the measure if they agree that there is no measure consistent with the other provisions of this Agreement which is practicable in order to achieve the objective set forth in paragraph 13 of this Article, and if they are satisfied:

(a) that agreement has been reached with such other contracting parties as a result of the consultations referred to above, or

(b) if no such agreement has been reached within sixty days after the notification provided for in paragraph 14 has been received by the contracting parties, that the contracting party having recourse to this Section has made all reasonable efforts to reach an agreement and that the interests of other contracting parties are adequately safeguarded.

The contracting party having recourse to this Section shall thereupon be released from its obligations under the relevant provisions of the other Articles of this Agreement to the extent necessary to permit it to apply the measure.

19. If a proposed measure of the type described in paragraph 13 of this Article concerns an industry the establishment of which has in the initial period been facilitated by incidental protection afforded by restrictions imposed by the contracting party concerned for balance of payments purposes under the relevant provisions of this Agreement, that contracting party may resort to the provisions and procedures of this Section, *Provided* that it shall not apply the proposed measure without the concurrence of the contracting parties.

20. Nothing in the preceding paragraphs of this Section shall authorize any deviation from the provisions of Articles I, II and XIII of this Agreement. The provisos to paragraph 10 of this Article shall also be applicable to any restriction under this Section.

21. At any time while a measure is being applied under paragraph 17 of this Article any contracting party substantially affected by it may suspend the application to the trade of the contracting party having recourse to this Section of such substantially equivalent concessions or other obligations under this Agreement the suspension of which the contracting parties do not disapprove; *Provided* that sixty days' notice of such suspension is given to the contracting parties not later than six months after the measure has been introduced or changed substantially to the detriment of the contracting party affected. Any such contracting party shall afford adequate opportunity for consultation in accordance with the provisions of Article XXII of this Agreement.

Section D

22. A contracting party coming within the scope of subparagraph 4(b) of this Article desiring, in the interest of the development of its economy, to introduce a measure of the type described in paragraph 13 of this Article in respect of the establishment of a particular industry may apply to the contracting parties for approval of such measure. The contracting parties shall promptly consult with such contracting party and shall, in making their decision be guided by the considerations set out in paragraph 16. If the contracting parties concur in the proposed measure the contracting party concerned shall be released from its obligations under the relevant provisions of the other Articles of this agreement to the extent necessary to permit it to apply the measure. If the proposed measure affects a product which is the subject of a concession included in the appropriate Schedule annexed to this Agreement, the provisions of paragraph 18 shall apply.

23. Any measure applied under this Section shall comply with the provisions of paragraph 20 of this Article.

ARTICLE XIX—EMERGENCY ACTION ON IMPORTS OF PARTICULAR PRODUCTS

1. (a) If, as a result of unforeseen developments and of the effect of the obligations incurred by a contracting party under this Agreement, including tariff concessions, any product is being imported into the territory of that contracting party in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers in that territory of like or directly competitive products, the contracting party shall be free, in respect of such product, and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend the obligation in whole or in part or to withdraw or modify the concession.

(b) If any product, which is the subject of a concession with respect to a preference, is being imported into the territory of a contracting party in the circumstances set forth in sub-paragraph (a) of this paragraph, so as to cause or threaten serious injury to domestic producers of like or directly competitive products in the territory of a contracting party which receives or received such preference, the importing contracting party shall be free, if that other contracting party so requests, to suspend the relevant obligation in whole or in part or to withdraw or modify the concession in respect of the product, to the extent and for such time as may be necessary to prevent or remedy such injury.

2. Before any contracting party shall take action pursuant to the provisions of paragraph 1 of this Article, it shall give notice in writing to the contracting parties as far in advance as may be practicable and shall afford the contracting parties and those contracting parties having a substantial interest as exporters of the product concerned an opportunity to consult with it in respect of the proposed action. When such notice is given in relation to a concession with respect to a preference, the notice shall name the contracting party which has requested the action. In critical circumstances, where delay would cause damage which it would be difficult to repair, action under paragraph 1 of this Article may be taken pro-

visionally without prior consultation, on the condition that consultation shall be effected immediately after taking such action.

3. (a) If agreement among the interested contracting parties with respect to the action is not reached, the contracting party which proposes to take or continue the action shall, nevertheless, be free to do so, and if such action is taken or continued, the affected contracting parties shall then be free, not later than ninety days after such action is taken, to suspend, upon the expiration of thirty days from the day on which written notice of such suspension is received by the contracting parties, the application to the trade of the contracting party taking such action, or in the case envisaged in paragraph 1(b) of this Article, to the trade of the contracting party requesting such action, of such substantially equivalent concessions or other obligations [19] under this Agreement the suspension of which the contracting parties do not disapprove.

(b) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, where action is taken under paragraph 2 of this Article without prior consultation and causes or threatens serious injury in the territory of a contracting party to the domestic producers of products affected by the action, that contracting party shall, where delay would cause damage difficult to repair, be free to suspend, upon the taking of the action and throughout the period of consultation, such concessions or other obligations as may be necessary to prevent or remedy the injury.

ARTICLE XX—GENERAL EXCEPTIONS

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:

(a) necessary to protect public morals;

(b) necessary to protect human, animal or plant life or health;

(c) relating to the importation or exportation of gold or silver;

(d) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to customs enforcement, the enforcement of monopolies operated under paragraph 4 of Article II and Article XVII, the protection of patents, trademarks and copyrights, and the prevention of deceptive practices;

(e) relating to the products of prison labour;

(f) imposed for the protection of national treasures of artistic, historic or archaeological value;

(g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;

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[19] The words "concessions or other obligations" were substituted for "obligations or concessions" by Part O of the Protocol Amending the Preamble and Parts II and III of the GATT (8 UST 1786).

(h)[20] undertaken in pursuance of obligations under any intergovernmental commodity agreement which conforms to criteria submitted to the contracting parties and not disapproved by them or which is itself so submitted and not so disapproved;

(i) involving restrictions on exports of domestic materials necessary to assure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilization plan; *Provided* that such restrictions shall not operate to increase the exports of or the protection afforded to such domestic industry, and shall not depart from the provisions of this Agreement relating to non-discrimination;

(j)[20] essential to the acquisition or distribution of products in general or local short supply; *Provided* that any such measures shall be consistent with the principle that all contracting parties are entitled to an equitable share of the international supply of such products, and that any such measures, which are inconsistent with the other provisions of this Agreement shall be discontinued as soon as the conditions giving rise to them have ceased to exist. The contracting parties shall review the need for this sub-paragraph not later than 30 June 1960.

ARTICLE XXI—SECURITY EXCEPTIONS

Nothing in this Agreement shall be construed

(a) to require any contracting party to furnish any information the disclosure of which it considers contrary to its essential security interests; or

(b) to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests

(i) relating to fissionable materials or the materials from which they are derived;

(ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;

(iii) taken in time of war or other emergency in international relations; or

(c) to prevent any contracting party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

ARTICLE XXII—CONSULTATION[21]

1. Each contracting party shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such representations as may be made by another contracting

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[20] Sections (h) and (j) as amended and restated by Part P of the Protocol Amending the Preamble and Parts II and III of the GATT (8 UST 1786).

[21] As amended and restated by Part Q of the Protocol Amending the Preamble and Parts II and III of the GATT (8 UST 1787).

party with respect to any matter affecting the operation of this Agreement.

2. The contracting parties may, at the request of a contracting party, consult with any contracting party or parties in respect of any matter for which it has not been possible to find a satisfactory solution through consultation under paragraph 1.

ARTICLE XXIII—NULLIFICATION OR IMPAIRMENT

1. If any contracting party should consider that any benefit accruing to it directly or indirectly under this Agreement is being nullified or impaired or that the attainment of any objective of the Agreement is being impeded as the result of (a) the failure of another contracting party to carry out its obligations under this Agreement, or (b) the application by another contracting party of any measure, whether or not it conflicts with the provisions of this Agreement, or (c) the existence of any other situation, the contracting party may, with a view to the satisfactory adjustment of the matter, make written representations or proposals to the other contracting party or parties which it considers to be concerned. Any contracting party thus approached shall give sympathetic consideration to the representations or proposals made to it.

2. If no satisfactory adjustment is effected between the contracting parties concerned within a reasonable time, or if the difficulty is of the type described in paragraph 1(c) of this Article, the matter may be referred to the contracting parties. The contracting parties shall promptly investigate any matter so referred to them and shall make appropriate recommendations to the contracting parties which they consider to be concerned, or give a ruling on the matter, as appropriate. The contracting parties may consult with contracting parties, with the Economic and Social Council of the United Nations and with any appropriate inter-governmental organization in cases where they consider such consultation necessary.

If the contracting parties consider that the circumstances are serious enough to justify such action, they may authorize a contracting party or parties to suspend the application to any other contracting party or parties of such concessions or other obligations under this Agreement as they determine to be appropriate in the circumstances. If the application to any contracting party of any concession or other obligation is in fact suspended, that contracting party shall then be free, not later than sixty days after such action is taken to give written notice to the Executive Secretary to the contracting parties of its intention to withdraw from this Agreement and such withdrawal shall take effect upon the sixtieth day following the day on which such notice is received by him.[22]

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[22] Paragraph added by the Protocol Amending the Preamble and Parts II and III of the GATT (8 UST 1787).

PART III

ARTICLE XXIV—TERRITORIAL APPLICATION—FRONTIER TRAFFIC—CUSTOMS UNIONS AND FREE-TRADE AREAS [23]

1. The provisions of this Agreement shall apply to the metropolitan customs territories of the contracting parties and to any other customs territories in respect of which this Agreement has been accepted under Article XXVI or is being applied under Article XXXIII or pursuant to the Protocol of Provisional Application. Each such customs territory shall, exclusively for the purposes of the territorial application of this Agreement, be treated as though it were a contracting party; *Provided* that the provisions of this paragraph shall not be construed to create any rights or obligations as between two or more customs territories in respect of which this Agreement has been accepted under Article XXVI or is being applied under Article XXXIII or pursuant to the Protocol of Provisional Application by a single contracting party.

2. For purposes of this Agreement customs territory shall be understood to mean any territory with respect to which separate tariffs or other regulations of commerce are maintained for a substantial part of the trade of such territory with other territories.

3. The provisions of this Agreement shall not be construed to prevent:

(a) advantages accorded by any contracting party to adjacent countries in order to facilitate frontier traffic;

(b) advantages accorded to the trade with the Free Territory of Trieste by countries contiguous to that territory, provided that such advantages are not in conflict with the Treaties of Peace arising out of the Second World War.

4.[24] The contracting parties recognize the desirability of increasing freedom of trade by the development, through voluntary agreements, of closer integration between the economies of the countries parties to such agreements. They also recognize that the purpose of a customs union or of a free-trade area should be to facilitate trade between the constituent territories and not to raise barriers to the trade of other contracting parties with such territories.

5. Accordingly, the provisions of this Agreement shall not prevent, as between the territories of contracting parties, the formation of a customs union or of a free-trade area or the adoption of an interim agreement necessary for the formation of a customs union or of a free-trade area; *Provided* that:

(a) with respect to a customs union, or an interim agreement leading to the formation of a customs union, the duties and other regulations of commerce imposed at the institution of any such union or interim agreement in respect of trade with contracting parties not parties to such union or agreement shall not on the whole be higher or more restrictive than the general incidence of the duties and regulations of commerce applicable in the constituent territories prior to the formation of such union or the adoption of such interim agreement, as the case may be;

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[23] As amended and restated by the Special Protocol Relating to Article XXIV of the GATT (62 Stat. 2013).

[24] As amended and restated by Part S of the Protocol Amending the Preamble and Parts II and III of the GATT (8 UST 1768).

(b) with respect to a free-trade area, or an interim agreement leading to the formation of a free-trade area, the duties and other regulations of commerce maintained in each of the constituent territories and applicable at the formation of such free-trade area or the adoption of such interim agreement to the trade of contracting parties not included in such area or not parties to such agreement shall not be higher or more restrictive than the corresponding duties and other regulations of commerce existing in the same constituent territories prior to the formation of the free-trade area, or interim agreement, as the case may be; and

(c) any interim agreement referred to in sub-paragraphs (a) and (b) shall include a plan and schedule for the formation of such a customs union or of such a free-trade area within a reasonable length of time.

6. If, in fulfilling the requirements of sub-paragraphs 5(a), a contracting party proposes to increase any rate of duty inconsistently with the provisions of Article II, the procedure set forth in Article XXVIII shall apply. In providing for compensatory adjustment, due account shall be taken of the compensation already afforded by the reductions brought about in the corresponding duty of the other constituents of the union.

7. (a) Any contracting party deciding to enter into a customs union or free-trade area, or an interim agreement leading to the formation of such a union or area, shall promptly notify the contracting parties and shall make available to them such information regarding the proposed union or area as will enable them to make such reports and recommendations to contracting parties as they may deem appropriate.

(b) If, after having studied the plan and schedule included in an interim agreement referred to in paragraph 5 in consultation with the parties to that agreement and taking due account of the information made available in accordance with the provisions of subparagraph (a), the contracting parties find that such agreement is not likely to result in the formation of a customs union or of a free-trade area within the period contemplated by the parties to the agreement or that such period is not a reasonable one, the contracting parties shall make recommendations to the parties to the agreement. The parties shall not maintain or put into force, as the case may be, such agreement if they are not prepared to modify it in accordance with these recommendations.

(c) Any substantial change in the plan or schedule referred to in paragraph 5(c) shall be communicated to the contracting parties, which may request the contracting parties concerned to consult with them if the change seems likely to jeopardize or delay unduly the formation of the customs union or of the free-trade area.

8. For the purposes of this Agreement:

(a) A customs union shall be understood to mean the substitution of a single customs territory for two or more customs territories, so that

(i) duties and other restrictive regulations of commerce (except, where necessary, those permitted under Articles

XI, XII, XIII, XIV, XV and XX) are eliminated with respect to substantially all the trade between the constituent territories of the union or at least with respect to substantially all the trade in products originating in such territories, and,

(ii) subject to the provisions of paragraph 9, substantially the same duties and other regulations of commerce are applied by each of the members of the union to the trade of territories not included in the union;

(b) A free-trade area shall be understood to mean a group of two or more customs territories in which the duties and other restrictive regulations of commerce (except, where necessary, those permitted under Articles XI, XII, XIII, XIV, XV, and XX) are eliminated on substantially all the trade between the constituent territories in products originating in such territories.

9. The preferences referred to in paragraph 2 of Article I shall not be affected by the formation of a customs union or of a free-trade area but may be eliminated or adjusted by means of negotiations with contracting parties affected. This procedure of negotiations with affected contracting parties shall, in particular, apply to the elimination of preferences required to conform with the provisions of paragraph 8(a)(i) and paragraph 8(b).

10. The contracting parties may by a two-thirds majority approve proposals which do not full comply wih the requirements of paragraphs 5 to 9 inclusive, provided that such proposals lead to the formation of a customs union or a free-trade area in the sense of this Article.

11. Taking into account the exceptional circumstances arising out of the establishment of India and Pakistan as independent States and recognizing the fact that they have long constituted an economic unit, the contracting parties agree that the provisions of this Agreement shall not prevent the two countries from entering into special arrangements with respect to the trade between them, pending the establishment of their mutual trade relations on a definitive basis.

12. Each contracting party shall take such reasonable measures as may be available to it to ensure observance of the provisions of this Agreement by the regional and local governments and authorities within its territory.

ARTICLE XXV—JOINT ACTION BY THE CONTRACTING PARTIES

1. Representatives of the contracting parties shall meet from time to time for the purpose of giving effect to those provisions of this Agreement which involve joint action and, generally, with a view to facilitating the operation and furthering the objectives of this Agreement. Wherever reference is made in this Agreement to the contracting parties acting jointly they are designated as the contracting parties.

2. The Secretary-General of the United Nations is requested to convene the first meeting of the contracting parties, which shall take place not later than March 1, 1948.

3. Each contracting party shall be entitled to have one vote at all meetings of the contracting parties.

4. Except as otherwise provided for in this Agreement, decisions of the contracting parties shall be taken by a majority of the votes cast.

5.[25] In exceptional circumstances not elsewhere provided for in this Agreement, the contracting parties may waive an obligation imposed upon a contracting party by this Agreement; *Provided* that any such decision shall be approved by a two-thirds majority of the votes cast and that such majority shall comprise more than half of the contracting parties. The contracting parties may also by such a vote

(i) define certain categories of exceptional circumstances to which other voting requirements shall apply for the waiver of obligations, and

(ii) prescribe such criteria as may be necessary for the application of this paragraph.

ARTICLE XXVI—ACCEPTANCE, ENTRY INTO FORCE AND REGISTRATION [26]

1. The date of this Agreement shall be 30 October 1947.

2. This Agreement shall be open for acceptance by any contracting party which, on 1 March 1955, was a contracting party or was negotiating with a view to accession to this Agreement.

3. This Agreement, done in a single English original and in a single French original, both texts authentic, shall be deposited with the Secretary-General of the United Nations, who shall furnish certified copies thereof to all interested governments.

4.[27] Each government accepting this Agreement shall deposit an instrument of acceptance with the Executive Secretary of the contracting parties who will inform all interested governments of the date of deposit of each instrument of acceptance and of the day on which this Agreement enters into force under paragraph 6 of this Article.

5. (a) Each government accepting this Agreement does so in respect of its metropolitan territory and of the other territories for which it has international responsibility, except such separate customs territories as it shall notify to the Executive Secretary to the contracting parties at the time of its own acceptance.

(b) Any government, which has so notified the Executive Secretary under the exceptions in sub-paragraph (a) of this paragraph, may at any time give notice to the Executive Secretary that its acceptance shall be effective in respect of any separate customs territory or territories so excepted and such notice shall take effect on the thirtieth day following the day on which it is received by the Exective Secretary.

(c) If any of the customs territories, in respect of which a contracting party has accepted this Agreement, possesses or acquires full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement, such territory shall, upon sponsorship through a declaration by the responsible contracting party establishing the above-mentioned fact, be deemed to be a contracting party.

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[25] As amended and restated by the Protocol Modifying Certain Provisions of the GATT (62 Stat. 1992). Subparagraphs (b), (c) and (d) deleted by the Protocol Amending the Preamble and Parts II and III of the GATT (8 UST 1788).

The word "paragraph" has been substituted for the word "sub-paragraph," since paragraph 5 is no longer divided into sub-paragraphs (a), (b), etc., as was formerly the case. The text of the present paragraph 5 was formerly sub-paragraph 5(a).

[26] As amended and restated by Part II of the Protocol Amending the Preamble and Parts II and III of the GATT (8 UST 1788).

[27] The last sentence was added by Part V of the Protocol Amending the Preamble and Parts II and III of the GATT (8 UST 1789).

6. This Agreement shall enter into force, as among the governments which have accepted it, on the thirtieth day following the day on which instruments of acceptance have been deposited with the Executive Secretary to the contracting parties on behalf of governments named in Annex H, the territories of which account for 85 per centum of the total external trade of the territories of such governments, computed in accordance with the applicable column of percentages set forth therein. The instrument of acceptance of each other government shall take effect on the thirtieth day following the day on which such instrument has been deposited.

7. The United Nations is authorized to effect registration of this Agreement as soon as it enters into force.

ARTICLE XXVII—WITHHOLDING OR WITHDRAWAL OF CONCESSIONS

Any contracting party shall at any time be free to withhold or to withdraw in whole or in part any concession, provided for in the appropriate Schedule annexed to this Agreement, in respect of which such contracting party determines that it was initially negotiated with a government which has not become, or has ceased to be, a contracting party. A contracting party taking such action shall notify the contracting parties and, upon request, consult with contracting parties which have a substantial interest in the product concerned.[28]

ARTICLE XXVIII—MODIFICATION OF SCHEDULES [29]

1. On the first day of each three-year period, the first period beginning on 1 January 1958 (or on the first day of any other period that may be specified by the contracting parties by two-thirds of the votes cast) a contracting party (hereafter in this Article referred to as the "applicant contracting party") may, by negotiation and agreement with any contracting party with which such concession was initially negotiated and with any other contracting party determined by the contracting parties to have a principal supplying interest (which two preceding categories of contracting parties, together with the applicant contracting party, are in this Article hereinafter referred to as the "contracting parties primarily concerned"), and subject to consultation with any other contracting party determined by the contracting parties to have a substantial interest in such concession, modify or withdraw a concession included in the appropriate Schedule annexed to this Agreement.

2. In such negotiations and agreement, which may include provision for compensatory adjustment with respect to other products, the contracting parties concerned shall endeavour to maintain a general level of reciprocal and mutually advantageous concessions

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[28] As amended and restated by the Protocol Modifying Article XXVI of the Agreement of October 30, 1947 (2 UST 1583).

[29] As amended and restated by Part W of the Protocol Amending the Preamble and Parts II and III of the GATT (18 UST 1788).

not less favourable to trade than that provided for in this Agreement prior to such negotiations.

3. (a) If agreement between the contracting parties primarily concerned cannot be reached before 1 January 1958 or before the expiration of a period envisaged in paragraph 1 of this Article, the contracting party which propose to modify or withdraw the concession shall, nevertheless, be free to do so and if such action is taken any contracting party with which such concession was initially negotiated, any contracting party determined under paragraph 1 to have a principal supplying interest and any contracting party determined under paragraph 1 to have a substantial interest shall then be free not later than six months after such action is taken, to withdraw, upon the expiration of thirty days from the day on which written notice of such withdrawal is received by the contracting parties, substantially equivalent concessions initially negotiated with the applicant contracting party.

(b) If agreement between the contracting parties primarily concerned is reached but any other contracting party determined under paragraph 1 of this Article to have a substantial interest is not satisfied, such other contracting party shall be free, not later than six months after action under such agreement is taken, to withdraw, upon the expiration of thirty days from the day on which written notice of such withdrawal is received by the contracting parties, substantially equivalent concessions initially negotiated with the applicant contracting party.

4. The contracting parties may, at any time, in special circumstances, authorize a contracting party to enter into negotiations for modification or withdrawal of a concession included in the appropriate Schedule annexed to this Agreement subject to the following procedures and conditions:

(a) Such negotiations and any related consultations shall be conducted in accordance with the provisions of paragraphs 1 and 2 of this Article.

(b) If agreement between the contracting parties primarily concerned is reached in the negotiations, the provisions of paragraph 3(b) of this Article shall apply.

(c) If agreement between the contracting parties primarily concerned is not reached within a period of sixty days after negotiations have been authorized, or within such longer period as the contracting parties may have prescribed the applicant contracting party may refer the matter to the contracting parties.

(d) Upon such reference, the contracting parties shall promptly examine the matter and submit their views to the contracting parties primarily concerned with the aim of achieving a settlement. If a settlement is reached, the provisions of paragraph 3(b) shall apply as if agreement between the contracting parties primarily concerned had been reached. If no settlement is reached between the contracting parties primarily concerned, the applicant contracting party shall be free to modify or withdraw the concession, unless the contracting parties determine that the applicant contracting party has unreasonably failed to offer adequate compensation. If such action is taken, any contracting party with which the concession was initially negotiated, any contracting party determined under paragraph 4(a) to have a principal supplying interest and any contracting party determined under paragraph 4(a) to have a substantial interest, shall be free, not later than six months after such action is taken, to modify or withdraw, upon the expiration of thirty days from the day on which written notice of such withdrawal is received by the contracting parties, substantially equivalent concessions initially negotiated with the applicant contracting party.

5. Before 1 January 1958 and before the end of any period envisaged in paragraph 1 a contracting party may elect by notifying the contracting parties to reserve the right, for the duration of the next period, to modify the appropriate Schedule in accordance with the procedures of paragraphs 1 to 3. If a contracting party so elects, other contracting parties shall have the right, during the same period, to modify or withdraw, in accordance with the same procedures, concessions initially negotiated with that contracting party.

ARTICLE XXVIII BIS—TARIFF NEGOTIATIONS [30]

1. The contracting parties recognize that customs duties often constitute serious obstacles to trade; thus negotiations on a reciprocal and mutually advantageous basis, directed to the substantial reduction of the general level of tariffs and other charges on imports and exports and in particular to the reduction of such high tariffs as discourage the importation even of minimum quantities, and conducted with due regard to the objectives of this Agreement and the varying needs of individual contracting parties, are of great importance to the expansion of international trade. The contracting parties may therefore sponsor such negotiations from time to time.

2. (a) Negotiations under this Article may be carried out on a selective product-by-product basis or by the application of such multilateral procedures as may be accepted by the contracting parties concerned. Such negotiations may be directed towards the reduction of duties, the binding of duties at then existing levels or undertakings that individual duties or the average duties on specified categories of products shall not exceed specified levels. The binding against increase of low duties or of duty-free treatment shall, in principle, be recognized as a concession equivalent in value to the reduction of high duties.

(b) The contracting parties recognize that in general the success of multilateral negotiations would depend on the participation of all contracting parties which conduct a substantial proportion of their external trade with one another.

3. Negotiations shall be conducted on a basis which affords adequate opportunity to take into account:

(a) the needs of individual contracting parties and individual industries;

(b) the needs of less-developed countries for a more flexible use of tariff protection to assist their economic development and the special needs of these countries to maintain tariffs for revenue purposes; and

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[30] Added by Part X(i) of the Protocol Amending the Preamble and Parts II and III of the GATT (8 UST 1792).

(c) all other relevant circumstances, including the fiscal, developmental, strategic and other needs of the contracting parties concerned.

ARTICLE XXIX—THE RELATION OF THIS AGREEMENT TO THE HAVANA CHARTER [31]

1. The contracting parties undertake to observe to the fullest extent of their executive authority the general principles of Chapters I to VI inclusive and of Chapter IX of the Havana Charter pending their acceptance of it in accordance with their constitutional procedures.

2. Part II of this Agreement shall be suspended on the day on which the Havana Charter enters into force.

3. If by September 30, 1949, the Havana Charter has not entered into force, the contracting parties shall meet before December 31, 1949, to agree whether this Agreement shall be amended, supplemented or maintained.

4. If at any time the Havana Charter should cease to be in force, the contracting parties shall meet as soon as practicable thereafter to agree whether this Agreement shall be supplemented, amended or maintained. Pending such agreement, Part II of this Agreement shall again enter into force; *Provided* that the provisions of Part II other than Article XXIII shall be replaced, *mutatis mutandis,* in the form in which they then appeared in the Havana Charter; and *Provided further* that no contracting party shall be bound by any provisions which did not bind it at the time when the Havana Charter ceased to be in force.

5. If any contracting party has not accepted the Havana Charter by the date upon which it enters into force, the contracting parties shall confer to agree whether, and if so in what way, this Agreement in so far as it affects relations between such contracting party and other contracting parties, shall be supplemented or amended. Pending such agreement the provisions of Part II of this Agreement shall, notwithstanding the provisions of paragraph 2 of this Article, continue to apply as between such contracting party and other contracting parties.

6. Contracting parties which are Members of the International Trade Organization shall not invoke the provisions of this Agreement so as to prevent the operation of any provision of the Havana Charter. The application of the principle underlying this paragraph to any contracting party which is not a Member of the International Trade Organization shall be the subject of an agreement pursuant to paragraph 5 of this Article.

ARTICLE XXX—AMENDMENTS

1. Except where provision for modification is made elsewhere in this Agreement, amendments to the provisions of Part I of this Agreement or to the provisions of Article XXIX or of this Article shall become effective upon acceptance by all the contracting parties, and other amendments to this Agreement shall become effec-

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[31] As amended and restated by Part C of the Protocol Modifying Part I and Article XXIX of the GATT (3 UST 5357).

tive, in respect of those contracting parties which accept them, upon acceptance by two thirds of the contracting parties and thereafter for each other contracting party upon acceptance by it.

2. Any contracting party accepting an amendment to this Agreement shall deposit an instrument of acceptance with the Secretary-General of the United Nations within such period as the contracting parties may specify. The contracting parties may decide that any amendment made effective under this Article is of such a nature that any contracting party which has not accepted it within a period specified by the contracting parties shall be free to withdraw from this Agreement, or to remain a contracting party with the consent of the contracting parties.

ARTICLE XXXI—WITHDRAWAL [32]

Without prejudice to the provisions of paragraph 12 of Article XVIII or of Article XXIII or of paragraph 2 of Article XXX, any contracting party may withdraw from this Agreement, or may separately withdraw on behalf of any of the separate customs territories for which it has international responsibility and which at the time possesses full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement. The withdrawal shall take effect upon the expiration of six months from the day on which written notice of withdrawal is received by the Secretary-General of the United Nations.

ARTICLE XXXII—CONTRACTING PARTIES [33]

1. The contracting parties to this Agreement shall be understood to mean those governments which are applying the provisions of this Agreement under Articles XXVI or XXXIII or pursuant to the Protocol of Provisional Application.

2. At any time after the entry into force of this Agreement pursuant to paragraph 6 of Article XXVI, those contracting parties which have accepted this Agreement pursuant to paragraph 4 of Article XXVI may decide that any contracting party which has not so accepted it shall cease to be a contracting party.

ARTICLE XXXIII—ACCESSION [34]

A government not party to this Agreement, or a government acting on behalf of a separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement, may accede to this Agreement, on its own behalf or on behalf of that territory, on terms to be agreed between such government and the contracting parties. Decisions of the contracting parties under this paragraph shall be taken by a two-thirds majority.

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[32] As amended by Part Y of the Protocol Amending the Preamble and Parts II and III of the GATT (8 UST 1793).

[33] As amended by the Protocol Modifying Certain Provisions of the GATT (62 Stat. 1992).

[34] As amended and restated by the Protocol Modifying Certain Provisions of the GATT (62 Stat. 1992).

ARTICLE XXXIV—ANNEXES

The annexes to this Agreement are hereby made an integral part of this Agreement.

ARTICLE XXXV—NON-APPLICATION OF THE AGREEMENT BETWEEN PARTICULAR CONTRACTING PARTIES [35]

1. This Agreement, or alternatively Article II of this Agreement shall not apply as between any contracting party and any other contracting party if:

(a) the two contracting parties have not entered into tariff negotiations with each other, and

(b) either of the contracting parties, at the time either becomes a contracting party, does not consent to such application.

2. The contracting parties may review the operation of this Article in particular cases at the request of any contracting party and make appropriate recommendations.

PART IV—TRADE AND DEVELOPMENT [36]

ARTICLE XXXVI—PRINCIPLES AND OBJECTIVES

1. The contracting parties,

(a) recalling that the basic objectives of this Agreement include the raising of standards of living and the progressive development of the economies of all contracting parties, and considering that the attainment of these objectives is particularly urgent for less-developed contracting parties;

(b) considering that export earnings of the less-developed contracting parties can play a vital part in their economic development and that the extent of this contribution depends on the prices paid by the less-developed contracting parties for essential imports, the volume of their exports, and the prices received for these exports;

(c) noting, that there is a wide gap between standards of living in less-developed countries and in other countries;

(d) recognizing that individual and joint action is essential to further the development of the economies of less-developed contracting parties and to bring about a rapid advance in the standards of living in these countries;

(e) recognizing that international trade as a means of achieving economic and social advancement should be governed by such rules and procedures—and measures in conformity with such rules and procedures—as are consistent with the objectives set forth in this Article;

(f) noting that the contracting parties may enable less-developed contracting parties to use special measures to promote their trade and development;

agree as follows:

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[35] Added by the Protocol Modifying Certain Provisions of the GATT (62 Stat. 1992). As amended and restated by Part Z of the Protocol Amending the Preamble and Parts II and III of the GATT (8 UST 1793).

[36] Part IV was added by Sec. 1A of the Protocol to Introduce Part IV (17 UST 1977).

2. There is need for a rapid and sustained expansion of the export earnings of the less-developed contracting parties.

3. There is need for positive efforts designed to ensure that less-developed contracting parties secure a share in the growth in international trade commensurate with the needs of their economic development.

4. Given the continued dependence of many less-developed contracting parties on the exportation of a limited range of primary products, there is need to provide in the largest possible measure more favourable and acceptable conditions of access to world markets for these products, and whenever appropriate to devise measures designed to stabilize and improve conditions of world markets in these products, including in particular measures designed to attain stable, equitable and remunerative prices, thus permitting an expansion of world trade and demand and a dynamic and steady growth of the real export earnings of these countries so as to provide them with expanding resources for their economic development.

5. The rapid expansion of the economies of the less-developed contracting parties will be facilitated by a diversification of the structure of their economies and the avoidance of an excess dependence on the export of primary products. There is, therefore, need for increased access in the largest possible measure to markets under favourable conditions for processed and manufactured products currently or potentially of particular export interest to less developed contracting parties.

6. Because of the chronic deficiency in the export proceeds and other foreign exchange earnings of less-developed contracting parties, there are important inter-relationships between trade and financial assistance to development. There is, therefore, need for close and continuing collaboration between the contracting parties and the international lending agencies so that they can contribute most effectively to alleviating the burdens these less-developed contracting parties assume in the interest of their economic development.

7. There is need for appropriate collaboration between the contracting parties, other intergovernmental bodies and the organs and agencies of the United Nations system, whose activities relate to the trade and economic development of less-developed countries.

8. The developed contracting parties do not expect reciprocity for commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of less-developed contracting parties.

9. The adoption of measures to give effect to these principles and objectives shall be a matter of conscious and purposeful effort on the part of the contracting parties both individually and jointly.

ARTICLE XXXVII—COMMITMENTS

1. The developed contracting parties shall to the fullest extent possible—that is, except when compelling reasons, which may include legal reasons, make it impossible—give effect to the following provisions:

(a) accord high priority to the reduction and elimination of barriers to products currently or potentially of particular export interest to less-developed contracting parties including customs duties and other restrictions which differentiate unreasonably between such products in their primary and in their processed forms:

(b) refrain from introducing, or increasing the incidence of, customs duties or non-tariff import barriers on products currently or potentially of particular export interest to less-developed contracting parties; and

(c)(i) refrain from imposing new fiscal measures, and

(ii) in any adjustments of fiscal policy accord high priority to the reduction and elimination of fiscal measures,

which would hamper, or which hamper, significantly the growth of consumption of primary products, in raw or processed form, wholly or mainly produced in the territories of less-developed contracting parties, and which are applied specifically to those products.

2. (a) Whenever it is considered that effect is not being given to any of the provisions of sub-paragraph (a), (b), or (c) of paragraph 1, the matter shall be reported to the contracting parties either by the contracting party not so giving effect to the relevant provisions or by any other interested contracting party.

(b)(i) The contracting parties shall, if requested so to do by any interested contracting party, and without prejudice to any bilateral consultations that may be undertaken, consult with the contracting party concerned and all interested contracting parties with respect to the matter with a view to reaching solutions satisfactory to all contracting parties concerned in order to further the objectives set forth in Article XXXVI. In the course of these consultations, the reasons given in cases where effect was not being given to the provisions of sub-paragraph (a), (b), or (c) of paragraph 1 shall be examined.

(ii) As the implementation of the provisions of sub-paragraph (a), (b), or (c) of paragraph 1 by individual contracting parties may in some cases be more readily achieved where action is taken jointly with other developed contracting parties, such consultation might, where appropriate, be directed towards this end.

(iii) the consultations by the contracting parties might also, in appropriate cases, be directed towards agreement on joint action designed to further the objectives of this Agreement as envisaged in paragraph 1 of Article XXV.

3. The developed contracting parties shall:

(a) make every effort, in cases where a government directly or indirectly determines the resale price of products wholly or mainly produced in the territories of less-developed contracting parties, to maintain trade margins at equitable levels;

(b) give active consideration to the adoption of other measures designed to provide greater scope for the development of imports from less-developed contracting parties and collaborate in appropriate international action to this end;

(c) have special regard to the trade interests of less-developed contracting parties when considering the application of other measures permitted under this Agreement to meet particular problems and explore all possibilities of constructive remedies before applying such measures where they would affect essential interests of those contracting parties.

4. Less-developed contracting parties agree to take appropriate action in implementation of the provisions of Part IV for the benefit of the trade of other less-developed contracting parties, insofar as such action is consistent with their individual present and future development, financial and trade needs taking into account past trade developments as well as the trade interests of less-developed contracting parties as a whole.

5. In the implementation of the commitments set forth in paragraphs 1 to 4 each contracting party shall afford to any other interested contracting party or contracting parties full and prompt opportunity for consultations under the normal procedures of this agreement with respect to any matter or difficulty which may arise.

ARTICLE XXXVIII—JOINT ACTION

1. The contracting parties shall collaborate jointly, within the framework of this Agreement and elsewhere, as appropriate, to further the objectives set forth in Article XXXVI.

2. In particular, the contracting parties shall:

(a) where appropriate, take action, including action through international arrangements, to provide improved and acceptable conditions of access to world markets for primary products of particular interest to less-developed contracting parties and to devise measures designed to stablize and improve conditions of world markets in these products including measures designed to attain stable, equitable and remunerative prices for exports of such products;

(b) seek appropriate collaboration in matters of trade and development policy with the United Nations and its organs and agencies, including any institutions that may be created on the basis of recommendations by the United Nations Conference on Trade and Development;

(c) collaborate in analyzing the development plans and policies of individual less-developed contracting parties and in examining trade and aid relationships with a view to devising concrete measures to promote the development of export potential and to facilitate access to export markets for the products of the industries thus developed and, in this connexion seek appropriate collaboration with governments and international organizations, and in particular with organizations having competence in relation to financial assistance for economic development, in systematic studies of trade and aid relationships in individual less-developed contracting parties aimed at obtaining a clear analysis of export potential, market prospects and any further action that may be required;

(d) keep under continuous review the development of world trade with special reference to the rate of growth of the trade of less-developed contracting parties and make such recomendations to contracting parties as may, in the circumstances, be deemed appropriate;

(e) collaborate in seeking feasible methods to expand trade for the purpose of economic development, through international harmonization and adjustment of national policies and regulations, through technical and commercial standards affecting production, transportation and marketing, and through export promotion by the establishment of facilities for the increased flow of trade information and the development of market research; and

(f) establish such institutional arrangements as may be necessary to further the objectives set forth in Article XXXVI and to give effect to the provisions of this Part.

ANNEX A—LIST OF TERRITORIES REFERRED TO IN PARAGRAPH 2(A) OF ARTICLE I

United Kingdom of Great Britain and Northern Ireland.
Dependent territories of the United Kingdom of Great Britain and Northern Ireland.
Canada.
Commonwealth of Australia.
Dependent territories of the Commonwealth of Australia.
New Zealand.
Dependent territories of New Zealand.
Union of South Africa including South West Africa.
Ireland.
India (as on April 10, 1947).
Newfoundland.
Southern Rhodesia.
Burma.
Ceylon.

Certain of the territories listed above have two or more preferential rates in force for certain products. Any such territory may, by agreement with the other contracting parties which are principal suppliers of such products at the most-favoured-nation rate, substitute for such preferential rates a single preferential rate which shall not on the whole be less favourable to suppliers at the most-favoured-nation rate than the preferences in force prior to such substitution.

The imposition of an equivalent margin of tariff preference to replace a margin of preference in an internal tax existing on April 10, 1947, exclusively between two or more of the territories listed in this Annex or to replace the preferential quantitative arrangements described in the following paragraph, shall not be deemed to constitute an increase in a margin of tariff preference.

The preferential arrangements referred to in paragraph 5(b) of Article XIV are those existing in the United Kingdom on April 10, 1947, under contractual agreements with the Governments of Canada, Australia and New Zealand, in respect to chilled and frozen beef and veal, frozen mutton and lamb, chilled and frozen pork, and bacon. It is the intention, without prejudice to any action taken under part I(h) of Article XX, that these arrangements shall be eliminated or replaced by tariff preferences, and that negotiations to this end shall take place as soon as practicable among the countries substantially concerned or involved.

The film hire tax in force in New Zealand on April 10, 1947, shall, for the purposes of this Agreement, be treated as a customs duty under Article I. The renters' film quota in force in New Zealand on April 10, 1947, shall, for the purposes of this Agreement, be treated as a screen quota under Article IV.

The Dominions of India and Pakistan have not been mentioned separately in the above list since they had not come into existence as such on the base date of April 10, 1947.

ANNEX B—LIST OF TERRITORIES OF THE FRENCH UNION REFERRED TO IN PARAGRAPH 2(b) OF ARTICLE I

France.
French Equatorial Africa (Treaty Basin of the Congo[37] and other territories).
French West Africa.
Cameroons under French Mandate.[37]
French Somali Coast and Dependencies.
French Establishments in India.[37]
French Establishments in Oceania.
French Establishments in the Condominium of the New Hebrides.[37]
Guadeloupe and Dependencies.
French Guiana.
Indo-China.
Madagascar and Dependencies.
Morocco (French zone).[37]
Martinique.
New Caledonia and Dependencies.
Réunion.
Saint-Pierre and Miquelon.
Togo under French Mandate.[37]
Tunisia.

ANNEX C—LIST OF TERRITORIES OF THE CUSTOMS UNION OF BELGIUM, LUXEMBURG AND THE NETHERLANDS REFERRED TO IN PARAGRAPH 2(b) OF ARTICLE I

The Economic Union of Belgium and Luxemburg.
Belgian Congo.
Ruanda Urundi.
Netherlands.
New Guinea.
Surinam.
Netherlands Antilles.
Republic of Indonesia.

For imports into the metropolitan territories constituting the Customs Union.

ANNEX D—LIST OF TERRITORIES REFERRED TO IN PARAGRAPH 2(b) OF ARTICLE I AS RESPECTS THE UNITED STATES OF AMERICA

United States of America (customs territory).
Dependent territories of the United States of America.

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[37] For imports into Metropolitan France and Territories of the French Union.

Republic of the Philippines.

The imposition of an equivalent margin of tariff preference to replace a margin of preference in an internal tax existing on April 10, 1947, exclusively between two or more of the territories listed in this Annex shall not be deemed to constitute an increase in a margin of tariff presence.

ANNEX E—LIST OF TERRITORIES COVERED BY PREFERENTIAL ARRANGEMENTS BETWEEN CHILE AND NEIGHBORING COUNTRIES REFERRED TO IN PARAGRAPH 2(d) OF ARTICLE I

Preferences in force exclusively between Chile on the one hand, and

1. Argentina.
2. Bolivia.
3. Peru.

on the other hand.

ANNEX F—LIST OF TERRITORIES COVERED BY PREFERENTIAL ARRANGEMENTS BETWEEN LEBANON AND SYRIA AND NEIGHBORING COUNTRIES REFERRED TO IN PARAGRAPH 2(d) OF ARTICLE I

Preferences in force exclusively between the Lebano-Syrian Customs Union, on the one hand, and

1. Palestine.
2. Transjordan.

on the other hand.

ANNEX G—DATES ESTABLISHING MAXIMUM MARGINS OF PREFERENCE REFERRED TO IN PARAGRAPH 4 [38] OF ARTICLE I

Australia	October 15, 1946.
Canada	July 1, 1939.
France	January 1, 1939.
Lebano-Syrian Customs Union	November 30, 1938.
Union of South Africa	July 1, 1938.
Southern Rhodesia	May 1, 1941.

ANNEX H—PERCENTAGE SHARES OF TOTAL EXTERNAL TRADE TO BE USED FOR THE PURPOSE OF MAKING THE DETERMINATION REFERRED TO IN ARTICLE XXVI [38]

(Based on the average of 1949–1953)

If, prior to the accession of the Government to Japan to the General Agreement, the present Agreement has been accepted by contracting parties the external trade of which under column I accounts for the percentage of such trade specified in paragraph 6 of

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[38] As amended and restated by Part AA of the Protocol Amending the Preamble and Parts II and III of the G.A.T.T. (8 UST 1794). The number "4" has been substituted for the number "3" in the heading of Annex G. The reference to Article I was intended to be a reference to the last paragraph of Article I, which originally consisted of only three numbered paragraphs.

Article XXVI, column I shall be applicable for the purposes of that paragraph. If the present Agreement has not been so accepted prior to the accession of the Government of Japan, column II shall be applicable for the purposes of that paragraph.

	Contracing parties on—			Contracting parties on—	
	Mar. 1, 1955 (1)	Mar. 1, 1955 and Japan (2)		Mar. 1, 1955 (1)	Mar. 1, 1955 and Japan (2)
Australia	3.1	3.0	Indonesia	1.3	1.3
Austria	.9	.8	Italy	2.9	2.8
Belgium-Luxemburg	4.3	4.2	Netherlands, Kingdom of the	4.7	4.5
Brazil	2.5	2.4	New Zealand	1.0	1.0
Burma	.3	.3	Nicaragua	.1	.1
Canada	6.7	6.5	Norway	1.1	1.1
Ceylon	.5	.5	Pakistan	.9	.8
Chile	.6	.6	Peru	.4	.4
Cuba	1.1	1.1	Rhodesia and Nyasaland	.6	.6
Czechoslovakia	1.4	1.4	Sweden	2.5	2.4
Denmark	1.4	1.4	Turkey	.6	.6
Dominican Republic	.1	.1	Union of South Africa	1.8	1.8
Finland	1.0	1.0	United Kingdom	20.3	19.8
France	8.7	8.5	United States of America	20.6	20.1
Germany, Federal Republic of	5.3	5.2	Uruguay	.4	.4
Greece	.4	.4	Japan		2.3
Haiti	.1	.1			
India	2.4	2.4	Total	100.0	100.0

Note: These percentages have been computed taking into account the trade of all territories in respect of which the General Agreement on Tariffs and Trade is applied.

ANNEX I—NOTES AND SUPPLEMENTARY PROVISIONS [29]

Ad Article I

Paragraph 1.

The obligations incorporated in paragraph 1 of Article I by reference to paragraphs 2 and 4 of Article III and those incorporated in paragraph 2(b) of Article II by reference to Article VI shall be considered as falling within Part II for the purposes of the Protocol of Provisional Application.

The cross-references, in the paragraph immediately above and in paragraph 1 of Article I, to paragraphs 2 and 4 of Article III shall only apply after Article III has been modified by the entry into force of the amendment provided for in the Protocol Modifying Part II and Article XXVI of the General Agreement on Tariffs and Trade, dated September 14, 1948.

Paragraph 4.

The term "margin of preference" means the absolute difference between the most-favoured-nation rate of duty and the preferential rate of duty for the like product, and not the proportionate relation between those rates. As examples:

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[29] As amended to indicate additions and alterations.

(1) If the most-favoured-nation rate were 36 per cent *ad valorem* and the preferential rate were 24 per cent *ad valorem*, and not one-third of the most-favoured-nation rate;

(2) If the most-favoured-nation rate were 36 per cent *ad valorem* and the preferential rate were expressed as two-thirds of the most-favoured-nation rate, the margin of preference would be 12 per cent *ad valorem;*

(3) If the most-favoured-nation rate were 2 francs per kilogramme and the preferential rate were 1.50 francs per kilogramme, the margin of preference would be 0.50 francs per kilogramme.

The following kinds of customs action, taken in accordance with established uniform procedures, would not be contrary to a general binding of margins of preference:

(i) The re-application to an imported product of a tariff classification or rate of duty, properly applicable to such product, in cases in which the application of such classification or rate to such product was temporarily suspended or inoperative on April 10, 1947; and

(ii) The classification of a particular product under a tariff item other than that under which importations of that product were classified on April 10, 1947, in cases in which the tariff law clearly contemplates that such product may be classified under more than one tariff item.

Ad Article II

Paragraph 2(a).

The cross-reference, in paragraph 2(a) of Article II, to paragraph 2 of Article III shall only apply after Article III has been modified by the entry into force of the amendment provided for in the Protocol Modifying Part II and Article XXVI of the General Agreement on Tariffs and Trade, dated September 14, 1948.

Paragraph 2(b).

See the note relating to paragraph 1 of Article I.

Paragraph 4.

Except where otherwise specifically agreed between the contracting parties which initially negotiated the concession, the provisions of this paragraph will be applied in the light of the provisions of Article 31 of the Havana Charter.

Ad Article III

Any internal tax or other internal charge, or any law, regulation or requirement of the kind referred to in paragraph 1 which applies to any imported product and to the like domestic product and is collected or enforced in the case of the imported product at the time or point of importation, is nevertheless to be regarded as an internal tax or other internal charge, or a law, regulation or requirement of the kind referred to in paragraph 1, and is accordingly subject to the provisions of Article III.

Paragraph 1.

The application of paragraph 1 to internal taxes imposed by local governments and authorities within the territory of a contracting party is subject to the provisions of the final paragraph of article XXIV. The term "reasonable measures" in the last-mentioned paragraph would not require, for example, the repeal of existing national legislation authorizing local governments to impose internal taxes which, although technically inconsistent with the letter of Article III, are not in fact inconsistent with its spirit, if such repeal would result in a serious financial hardship for the local governments or authorities concerned. With regard to taxation by local governments or authorities which is inconsistent with both the letter and spirit of Article III, the term "reasonable measures" would permit a contracting party to eliminate the inconsistent taxation gradually over a transition period, if abrupt action would create serious administrative and financial difficulties.

Paragraph 2.

A tax conforming to the requirements of the first sentence of paragraph 2 would be considered to be inconsistent with the provisions of the second sentence only in cases where competition was involved between, on the one hand, the taxed product and, on the other hand, a directly competitive or substitutable product which was not similarly taxed.

Paragraph 5.

Regulations consistent with the provisions of the first sentence of paragraph 5 shall not be considered to be contrary to the provisions of the second sentence in any case in which all of the products subject to the regulations are produced domestically in substantial quantities. A regulation cannot be justified as being consistent with the provisions of the second sentence on the ground that the proportion or amount allocated to each of the products which are the subject of the regulation constitutes an equitable relationship between imported and domestic products.

Ad Article V

Paragraph 5.

With regard to transportation charges, the principle laid down in paragraph 5 refers to like products being transported on the same route under like conditions.

Ad Article VI

Paragraph 1.

1. Hidden dumping by associated houses (that is, the sale by an importer at a price below that corresponding to the price invoiced by an exporter with whom the importer is associated, and also below the price in the exporting country) constitutes a form of price dumping with respect to which the margin of dumping may be calculated on the basis of the price at which the goods are resold by the importer.

2. It is recognized that, in the case of imports from a country which has a complete or substantially complete monopoly of its trade and where all domestic prices are fixed by the State, special difficulties may exist in determining price comparability for the purposes of paragraph 1, and in such cases importing contracting parties may find it necessary to take into account the possibility that a strict comparison with domestic prices in such a country may not always be appropriate.

Paragraphs 2 and 3.

Note 1.—As in many other cases in customs administration, a contracting party may require reasonable security (bond or cash deposit) for the payment of anti-dumping or countervailing duty pending final determination of the facts in any case of suspected dumping or subsidization.

Note 2.—Multiple currency practices can in certain circumstances constitute a subsidy to exports which may be met by countervailing duties under paragraph 3 or can constitute a form of dumping by means of a partial depreciation of a country's currency which may be met by action under paragraph 2. By "multiple currency practices" is meant practices by governments or sanctioned by governments.

Paragraph 6(b).

Waivers under the provisions of this sub-paragraph shall be granted only on application by the contracting party proposing to levy an anti-dumping or countervailing duty, as the case may be.

Ad Article VII

Paragraph 1.

The expression "or other charges" is not to be regarded as including internal taxes or equivalent charges imposed on or in connexion with imported products.

Paragraph 2.

1. It would be in conformity with Article VII to presume that "actual value" may be represented by the invoice price, plus any nonincluded charges for legitimate costs which are proper elements of "actual value" and plus any abnormal discount or other reduction from the ordinary competitive price.

2. It would be in conformity with Article VII, paragraph 2(b), for a contracting party to construe the phrase "in the ordinary course of trade . . . under fully competitive conditions", as excluding any transaction wherein the buyer and seller are not independent of each other and price is not the sole consideration.

3. The standard of "fully competitive conditions" permits a contracting party to exclude from consideration prices involving special discounts limited to exclusive agents.

4. The wording of sub-paragraphs (a) and (b) permits a contracting party to determine the value for customs purposes, uniformly either (1) on the basis of a particular exporter's prices of the imported merchandise, or (2) on the basis of the general price level of like merchandise.

Ad Article VIII

1. While Article VIII does not cover the use of multiple rates of exchange as such, paragraphs 1 and 4 condemn the use of exchange taxes or fees as a device for implementing multiple currency practices; if, however, a contracting party is using multiple currency exchange fees for balance of payments reasons with the approval of the International Monetary Fund, the provisions of paragraph 9(a) of Article XV fully safeguard its position.

2. It would be consistent with paragraph 1 if on the importation of products from the territory of a contracting party into the territory of another contracting party, the production of certificates of origin should only be required to the extent that is strictly indispensable.

Ad Articles XI, XII, XIII, XIV and XVIII

Throughout Articles XI, XII, XIII, XIV and XVIII the terms "import restrictions" or "export restrictions" include restrictions made effective through state-trading operations.

Ad Article XI

Paragraph 2(c).

The term "in any form" in this paragraph covers the same products when in early stage of processing and still perishable, which compete directly with the fresh product and if freely imported would tend to make the restriction on the fresh product ineffective.

Paragraph 2, last sub-paragraph.

The term "special factors" includes changes in relative productive efficiency as between domestic and foreign producers, or as between different foreign producers, but not changes artificially brought about by means not permitted under the Agreement.

Ad Article XII

The contracting parties shall make provision for the utmost secrecy in the conduct of any consultation under the provisions of this Article.

Paragraph 3(c)(i).

Contracting parties applying restrictions shall endeavour to avoid causing serious prejudice to exports of a commodity on which the economy of a contracting party is largely dependent.

Paragraph 4(b).

It is agreed that the date shall be within ninety days after the entry into force of the amendments of this Article effected by the Protocol Amending the Preamble and Parts II and III of this Agreement. However, should the contracting parties find that conditions were not suitable for the application of the provisions of this sub-paragraph at the time envisaged, they may determine a later date; *Provided* that such date is not more than thirty days after such time as the obligations of Article VIII, Sections 2, 3, and

4 of the Articles of Agreement of the International Monetary Fund become applicable to contracting parties, members of the Fund, the combined foreign trade of which constitutes at least fifty per centum of the aggregate foreign trade of all contracting parties.

Paragraph 4(c).

It is agreed that paragraph 4(e) does not add any new criteria for the imposition or maintenance of quantitative restrictions for balance of payments reasons. It is solely intended to ensure that all external factors such as changes in the terms of trade, quantitative restrictions, excessive tariffs and subsidies, which may be contributing to the balance of payments difficulties of the contracting party applying restrictions will be fully taken into account.

Ad Article XIII

Paragraph 2(d).

No mention was made of "commercial considerations" as a rule for the allocation of quotas because it was considered that its application by governmental authorities might not always be practicable. Moreover, in cases where it is practicable, a contracting party could apply these considerations in the process of seeking agreement, consistently with the general rule laid down in the opening sentence of paragraph 2.

Paragraph 4.

See note relating to "special factors" in connection with the last subparagraph of paragraph 2 of Article XI.

Ad Article XIV

Paragraph 1.

The provisions of this paragraph shall not be so construed as to preclude full consideration by the contracting parties, in the consultations provided for in paragraph 4 of Article XII and in paragraph 12 of Article XVIII, of the nature, effects and reasons for discrimination in the field of import restrictions.[40]

Paragraph 2.

One of the situations contemplated in paragraph 2 is that of a contracting party holding balances acquired as a result of current transactions which it finds itself unable to use without a measure of discrimination.

Ad Article XV

Paragraph 4.

The word "frustrate" is intended to indicate, for example, that infringements of the letter of any Article of this Agreement by exchange action shall not be regarded as a violation of that Article if, in practice, there is no appreciable departure from the intent of the Article. Thus, a contracting party which, as part of its exchange control operated in accordance with the Articles of Agreement of the International Monetary Fund, requires payment to be received for its exports in its own currency or in the currency of one or more members of the International Monetary Fund will not thereby be deemed to contravene Article XI or Article XIII. Another example would be that of a contracting party which specifies on an import license the country from which the goods may be imported, for the purpose not of introducing any additional element of discrimination in its import licensing system but of enforcing permissible exchange controls.

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[40] Text as amended Feb. 15, 1961.

Ad Article XVI

The exemption of an exported product from duties or taxes borne by the like product when destined for domestic consumption, or the remission of such duties or taxes in amounts not in excess of those which have accrued, shall not be deemed to be a subsidy.

Section B

1. Nothing in Section B shall preclude the use by a contracting party of multiple rates of exchange in accordance with the Articles of Agreement of the International Monetary Fund.

2. For the purposes of Section B, a "primary product" is understood to be any product of farm, forest or fishery, or any mineral, in its natural form or which has undergone such processing as is customarily required to prepare it for marketing in substantial volume in international trade.

Paragraph 3.

1. The fact that a contracting party has not exported the product in question during the previous representative period would not in itself preclude that contracting party from establishing its right to obtain a share of the trade in the product concerned.

2. A system for the stabilization of the domestic price or of the return to domestic producers of a primary product independently of the movements of export prices, which results at times in the sale of the product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market, shall be considered not to involve a subsidy on exports within the meaning of paragraph 3 if the contracting parties determine that:

(a) the system has also resulted, or is so designed as to result, in the sale of the product for export at a price higher than the comparable price charged for the like product to buyers in the domestic market; and

(b) the system is so operated, or is designed so to operate, either because of the effective regulation of production or otherwise, as not to stimulate exports unduly or otherwise seriously to prejudice the interests of other contracting parties.

Notwithstanding such determination by the contracting parties, operations under such a system shall be subject to the provisions of paragraph 3 where they are wholly or partly financed out of government funds in addition to the funds collected from producers in respect of the product concerned.

Paragraph 4.

The intention of paragraph 4 is that the contracting parties should seek before the end of 1957 to reach agreement to abolish all remaining subsidies as from 1 January 1958; or, failing this, to reach agreement to extend the application of the standstill until the earliest date thereafter by which they can expect to reach such agreement.

Ad Article XVII

Paragraph 1.

The operations of Marketing Boards, which are established by contracting parties and are engaged in purchasing or selling, are subject to the provisions of sub-paragraphs (a) and (b).

The activities of Marketing Boards which are established by contracting parties and which do not purchase or sell but lay down regulations covering private trade are governed by the relevant Articles of this Agreement.

The charging by a state enterprise of different prices for its sales of a product in different markets is not precluded by the provisions of this Article, provided that such different prices are charged for commercial reasons, to meet conditions of supply and demand in export markets.

Paragraph 1(a).

Governmental measures imposed to ensure standards of quality and efficiency in the operation of external trade, or privileges granted for the exploitation of national natural resources but which do not empower the government to exercise control over the trading activities of the enterprise in question, do not constitute "exclusive or special privileges".

Paragraph 1(b).

A country receiving a "tied loan" is free to take this loan into account as a "commercial consideration" when purchasing requirements abroad.

Paragraph 2.

The term "goods" is limited to products as understood in commercial practice, and is not intended to include the purchase or sale of services.

Paragraph 3.

Negotiations which contracting parties agree to conduct under this paragraph may be directed towards the reduction of duties and other charges on imports and exports or towards the conclusion of any other mutually satisfactory arrangement consistent with the provisions of this Agreement. (See paragraph 4 of Article II and the note to that paragraph.)

Paragraph 4(b).

The term "import mark-up" in this paragraph shall represent the margin by which the price charged by the import monopoly for the imported product (exclusive of internal taxes within the purview of Article III, transportation, distribution, and other expenses incident to the purchase, sale or further processing, and a reasonable margin of profit) exceeds the landed cost.

Ad Article XVIII

The contracting parties and the contracting parties concerned shall preserve the utmost secrecy in respect of matters arising under this Article.

Paragraphs 1 and 4.

1. When they consider whether the economy of a contracting party "can only support low standards of living", the contracting parties shall take into consideration the normal position of that economy and shall not base their determination on exceptional circumstances such as those which may result from the temporary existence of exceptionally favourable conditions for the staple export product or products of such contracting party.
2. The phrase "in the early stages of development" is not meant to apply only to contracting parties which have just started their economic development, but also to contracting parties the economies of which are undergoing a process of industrialization to correct an excessive dependence on primary production.

Paragraphs 2, 3, 7, 13, and 22.

The reference to the establishment of particular industries shall apply not only to the establishment of a new industry, but also to the establishment of a new branch of production in an existing industry and to the substantial transformation of an existing industry, and to the substantial expansion of an existing industry supplying a relatively small proportion of the domestic demand. It shall also cover the reconstruction of an industry destroyed or substantially damaged as a result of hostilities or natural disasters.

Paragraph 7(b).

A modification or withdrawal, pursuant to paragraph 7(b), by a contracting party, other than the applicant contracting party, referred to in paragraph 7(a), shall be made within six months of the day in which the action is taken by the applicant contracting party, and shall become effective on the thirtieth day following the day on which such modification or withdrawal has been notified to the contracting parties.

Paragraph 11.

The second sentence in paragraph 11 shall not be interpreted to mean that a contracting party is required to relax or remove restrictions if such relaxation or removal would thereupon produce conditions, justifying the intensification or institution, respectively, of restrictions under paragraph 9 of Article XVIII.

Paragraph 12(b).

The date referred to in paragraph 12(b) shall be the date determined by the contracting parties in accordance with the provisions of paragraph 4(b) of Article XII of this Agreement.

Paragraphs 13 and 14.

It is recognized that, before deciding on the introduction of a measure and notifying the contracting parties in accordance with paragraph 14, a contracting party may need a reasonable period of time to assess the competitive position of the industry concerned.

Paragraphs 15 and 16.

It is understood that the contracting parties shall invite a contracting party proposing to apply a measure under Section C to consult with them pursuant to paragraph 16 if they are requested to do so by a contracting party the trade of which would be appreciably affected by the measure in question.

Paragraphs 16, 18, 19 and 22.

1. It is understood that the contracting parties may concur in a proposed measure subject to specific conditions or limitations. If the measure as applied does not conform to the terms of the concurrence it will to that extent be deemed a measure in which the contracting parties have not concurred. In cases in which the contracting parties have concurred in a measure for a specified period, the contracting party concerned, if it finds that the maintenance of the measure for a further period of time is required to achieve the objective for which the measure was originally taken, may apply to the contracting parties for an extension of that period in accordance with the provisions and procedures of Section C or D, as the case may be.

2. It is expected that the contracting parties will, as a rule, refrain from concurring in a measure which is likely to cause serious prejudice to exports of a commodity on which the economy of a contracting party is largely dependent.

Paragraphs 18 and 22.

The phrase "that the interests of other contracting parties are adequately safeguarded" is meant to provide latitude sufficient to permit consideration in each case of the most appropriate method of safeguarding those interests. The appropriate method may, for instance, take the form of an additional concession to be applied by the contracting party having recourse to Section C or D during such time as the deviation from the other Articles of the Agreement would remain in force or of the temporary suspension by any other contracting party referred to in paragraph 18 of a concession substantially equivalent to the impairment due to the introduction of the measure in question. Such contracting party would have the right to safeguard its interests through such a temporary suspension of a concession; *Provided* that this right will not be exercised when, in the case of a measure imposed by a contracting party coming within the scope of paragraph 4(a), the contracting parties have determined that the extent of the compensatory concession proposed was adequate.

Paragraph 19.

The provisions of paragraph 19 are intended to cover the cases where an industry has been in existence beyond the "reasonable period of time" referred to in the note to paragraphs 13 and 14, and should not be so construed as to deprive a contracting party coming within the scope of paragraph 4(a) of Article XVIII, of its right to resort to the other provisions of Section C, including paragraph 17, with regard to a newly established industry even though it has benefited from incidental protection afforded by balance of payments import restrictions.

Paragraph 21.

Any measure taken pursuant to the provisions of paragraph 21 shall be withdrawn forthwith if the action taken in accordance with paragraph 17 is withdrawn or if the contracting parties concur in the measure proposed after the expiration of the ninety-day time limit specified in paragraph 17.

Ad Article XX

Sub-paragraph (h)

The exception provided for in this sub-paragraph extends to any commodity agreement which conforms to the principles approved by the Economic and Social Council in its Resolution 30 (IV) of 28 March 1947.

Ad Article XXIV

Paragraph 9.

It is understood that the provisions of Article I would require that, when a product which has been imported into the territory of a member of a customs union or free-trade area at a preferential rate of duty is re-exported to the territory of another member of such union or area, the latter member should collect a duty equal to the difference between the duty already paid and any higher duty that would be payable if the product were being imported directly into its territory.

Paragraph 11.

Measures adopted by India and Pakistan in order to carry out definitive trade arrangements between them, once they have been agreed upon, might depart from particular provisions of this Agreement, but these measures would in general be consistent with the objectives of the Agreement.

Ad Article XXVIII

The contracting parties and each contracting party concerned should arrange to conduct the negotiations and consultations with the greatest possible secrecy in order to avoid premature disclosure of details of prospective tariff changes. The contracting parties shall be informed immediately of all changes in national tariffs resulting from recourse to this Article.

Paragraph 1.

1. If the contracting parties specify a period other than a three-year period, a contracting party may act pursuant to paragraph 1 or paragraph 3 of Article XXVIII on the first day following the expiration of such other period and, unless the contracting parties have again specified another period, subsequent periods will be three-year periods following the expiration of such specified period.

2. The provision that on 1 January 1958, and on other days determined pursuant to paragraph 1, a contracting party "may . . . modify, or withdraw a concession" means that on such day, and on the first day after the end of each period, the legal obligation of such contracting party under Article II is altered; it does not mean that the changes in its customs tariff should necessarily be made effective on that day. If a tariff change resulting from negotiations undertaken pursuant to this Article is delayed, the entry into force of any compensatory concessions may be similarly delayed.

3. Not earlier than six months, nor later than three months, prior to 1 January 1958, or to the termination date of any subsequent period, a contracting party wishing to modify or withdraw any concession embodied in the appropriate Schedule, should notify the contracting parties to this effect. The contracting parties shall then determine the contracting party or contracting parties with which the negotiations or consultations referred to in paragraph 1 shall take place. Any contracting party so determined shall participate in such negotiations or consultations with the applicant contracting party with the aim of reaching agreement before the end of the period. Any extension of the assured life of the Schedules shall relate to the Schedules as modified after such negotiations, in accordance with paragraphs 1, 2, and 3 of Article XXVIII. If the contracting parties are arranging for multilateral tariff negotiations to take place within the period of six months before 1 January 1958, or before any other day determined pursuant to paragraph 1, they shall include in the arrangements for such negotiations suitable procedures for carying out the negotiations referred to in this paragraph.

4. The object of providing for the participation in the negotiations of any contracting party with a principal supplying interest, in addition to any contracting party with which the concession was initially negotiated, is to ensure that a contracting party with a larger share in trade affected by the concession than a contracting party with which the concession was initially negotiated shall have an effective opportunity to protect the contractual right which it enjoys under this Agreement. On the other hand, it is not intended that the scope of the negotiations should be such as to make negotiations and agreement under Article XXVIII unduly difficult nor to create complications in the application of this Article in the future to concessions which result from negotiations thereunder. Accordingly, the contracting parties should only determine that a contracting party has a principal supplying interest if that contracting party has had, over a reasonable period of time prior to the negotiations, a larger share in the market of the applicant contracting

party than a contracting party with which the concession was initially negotiated or would, in the judgment of the contracting parties, have had such a share in the absence of discriminatory quantitative restrictions maintained by the applicant contracting party. It would therefore not be appropriate for the contracting parties to determine that more than one contracting party, or in those exceptional cases where there is near equality more than two contracting parties, had a principal supplying interest.

5. Notwithstanding the definition of a principal supplying interest in note 4 of paragraph 1, the contracting parties may exceptionally determine that a contracting party has a principal supplying interest if the concession in question affects trade which constitutes a major part of the total exports of such contracting party.

6. It is not intended that provision for participation in the negotiations of any contracting party with a principal supplying interest, and for consultation with any contracting party having a substantial interest in the concession which the applicant contracting party is seeking to modify or withdraw, should have the effect that it should have to pay compensation or suffer retaliation greater than the withdrawal or modification sought, judged in the light of the conditions of trade at the time of the proposed withdrawal or modification, making allowance for any discriminatory quantitative restrictions maintained by the applicant contracting party.

7. The expression "substantial interest" is not capable of a precise definition and accordingly may present difficulties for the contracting parties. It is, however, intended to be construed to cover only those contracting parties which have, or in the absence of discriminatory quantitative restrictions affecting their exports could reasonably be expected to have, a significant share in the market of the contracting party seeking to modify or withdraw the concession.

Paragraph 4.

1. Any request for authorization to enter into negotiations shall be accompanied by all relevant statistical and other data. A decision on such request shall be made within thirty days of its submission.

2. It is recognized that to permit certain contracting parties, depending in large measure on a relatively small number of primary commodities and relying on the tariff as an important aid for furthering diversification of their economies or as an important source of revenue, normally to negotiate for the modification or withdrawal of concessions only under paragraph 1 of Article XXVIII, might cause them at such a time to make modifications or withdrawals which in the long run would prove unnecessary. To avoid such a situation the contracting parties shall authorize any such contracting party, under paragraph 4, to enter into negotiations unless they consider this would result in, or contribute substantially toward, such an increase in tariff levels as to threaten the stability of the Schedules to this Agreement or lead to undue disturbance of international trade.

3. It is expected that negotiations authorized under paragraph 4 for modification or withdrawal of a single item, or a very small group of items, could normally be brought to a conclusion in sixty

days. It is recognized, however, that such a period will be inadequate for cases involving negotiations for the modification or withdrawal of a larger number of items and in such cases, therefore, it would be appropriate for the contracting parties to prescribe a longer period.

4. The determination referred to in paragraph 4(d) shall be made by the contracting parties within thirty days of the submission of the matter to them, unless the applicant contracting party agrees to a longer period.

5. In determining under paragraph 4(d) whether an applicant contracting party has unreasonably failed to offer adequate compensation, it is understood that the contracting parties will take due account of the special position of a contracting party which has bound a high proportion of its tariffs at very low rates of duty and to this extent has less scope than other contracting parties to make compensatory adjustment.

Ad Article XXVIII bis

Paragraph 3.

It is understood that the reference to fiscal needs would include the revenue aspect of duties and particularly duties imposed primarily for revenue purposes or duties imposed on products which can be substituted for products subject to revenue duties to prevent the avoidance of such duties.

Ad Article XXIX

Paragraph 1.

Chapters VII and VIII of the Havana Charter have been excluded from paragraph 1 because they generally deal with the organization, functions and procedures of the International Trade Organization.

Ad Part IV

The words "developed contracting parties" and the words "less-developed contracting parties" as used in Part IV are to be understood to refer to developed and less-developed countries which are parties to the General Agreement on Tariffs and Trade.

Ad Article XXXVI

Paragraph 1

This Article is based upon the objectives set forth in Article I as it will be amended by Section A of paragraph 1 of the Protocol Amending Part I and Articles XXIX and XXX when that Protocol enters into force.

Paragraph 4

The term "primary products" includes agricultural products, *vide* paragraph 2 of the note Ad Article XVI, Section B.

Paragraph 5

A diversification programme would generally include the intensification of activities for the processing of primary products and the development of manufacturing industries, taking into account the situation of the particular contracting party and the world outlook for production and consumption of different commodities.

Paragraph 8

It is understood that the phrase "do not expect reciprocity" means, in accordance with the objectives set forth in this Article, that the less-developed contracting parties should not be expected, in the course of trade negotiations, to make contributions which are inconsistent with their individual development, financial and trade needs, taking into consideration past trade developments.

This paragraph would apply in the event of action under Section A of Article XVIII, Article XXVIII, Article XXVIII bis (Article XXIX after the amendment set forth in Section A of paragraph 1 of the Protocol Amending Part I and Articles XXIX and XXX shall have become effective), Article XXXIII, or any other procedure under this Agreement.

Ad Article XXXVII

Paragraph 1(a)

This paragraph would apply in the event of negotiations for reduction or elimination of tariffs or other restrictive regulations of commerce under Articles XXVIII, XXVIII bis (XXIX after the amendment set forth in Section A of paragraph 1 of the Protocol Amending Part I and Articles XXIX and XXX shall have become effective), and Article XXXIII, as well as in connexion with other action to effect such reduction or elimination which contracting parties may be able to undertake.

Paragraph 3(b)

The other measures referred to in this paragraph might include steps to promote domestic structural changes, to encourage the consumption of particular products, or to introduce measures of trade promotion.

PROTOCOL OF PROVISIONAL APPLICATION OF THE GENERAL AGREEMENT OF TARIFFS AND TRADE[41]

1. The Governments of the COMMONWEALTH of AUSTRALIA, the KINGDOM OF BELGIUM (in respect of its metropolitan territory), CANADA, the FRENCH REPUBLIC (in respect of its metropolitan territory), CANADA, the FRENCH REPUBLIC (in respect of its metropolitan territory), the GRAND-DUCHY OF LUXEMBURG, the KINGDOM OF THE NETHERLANDS (in respect of its metropolitan territory), the UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND (in respect of its metropolitan territory), and the UNITED STATES OF AMERICA, undertake, provided that this Protocol shall have been signed on behalf of all

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[41] 61 Stat., part (61), page A2051.

the foregoing Governments not later than November 15, 1947, to apply provisionally on and after January 1, 1948:

(a) Parts I and III of the General Agreement on Tariffs and Trade, and

(b) Part II of that Agreement to the fullest extent not inconsistent with existing legislation.

2. The foregoing Governments shall make effective such provisional application of the General Agreement, in respect of any of their territories other than their metropolitan territories, on or after January 1, 1948, upon the expiration of thirty days from the day on which notice of such application is received by the Secretary-General of the United Nations.

3. Any other Government signatory to this Protocol shall make effective such provisional application of the General Agreement, on or after Janaury 1, 1948, upon the expiration of thirty days from the day of signature of this Protocol on behalf of such Government.

4. This Protocol shall remain open for signature at the Headquarters of the United Nations, (a) until November 15, 1947, on behalf of any Government named in paragraph 1 of this Protocol which has not signed it on this day, and (b) until June 30, 1948, on behalf of any other Government signatory to the Final Act adopted at the conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment which has not signed it on this day.

5. Any Government applying this Protocol shall be free to withdraw such application, and such withdrawal shall take effect upon the expiration of sixty days from the day on which written notice of such withdrawal is received by the Secretary-General of the United Nations.

6. The original of this Protocol shall be deposited with the Secretary-General of the United Nations, who will furnish certified copies thereof to all interested Governments.

IN WITNESS WHEREOF the respective Representatives, after having communicated their full powers, found to be in good and due form, have signed this Protocol.

DONE at Geneva, in a single copy, in the English and French languages, both texts authentic, this thirtieth day of October, one thousand nine hundred and forty-seven.

b. International Antidumping Code[1]

Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade; Done at Geneva April 12, 1979; entered into force for the United States January 1, 1980

The "Parties" to this Agreement (hereinafter referred to as the Parties)

Recognizing that anti-dumping practices should not constitute an unjustifiable impediment to international trade and that anti-dumping duties may be applied against dumping only if such dumping causes or threatens material injury to an established industry or materially retards the establishment of an industry;

Considering that it is desirable to provide for equitable and open procedures as the basis for a full examination of dumping cases;

Taking into account the particular trade, development and financial needs of developing countries;

Desiring to interpret the provisions of Article VI of the General Agreement on Tariffs and Trade (hereinafter referred to as the "General Agreement" or the "GATT") and to elaborate rules for their application in order to provide greater uniformity and certainty in their implementation; and

Desiring to provide for the speedy, effective and equitable resolution of disputes arising under this Agreement;

Hereby agree as follows:

PART I—ANTI-DUMPING CODE

Article 1

PRINCIPLES

The imposition of an anti-dumping duty is a measure to be taken only under the circumstances provided for in Article VI of the General Agreement and pursuant to investigations initiated[2] and conducted in accordance with the provisions of this Code. The following provisions govern the application of Article VI of the General Agreement in so far as action is taken under anti-dumping legislation or regulations.

Article 2

DETERMINATION OF DUMPING

1. For the purpose of this Code a product is to be considered as being dumped, i.e., introduced into the commerce of another country at less than its normal value, if the export price of the product

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[1] TIAS 9650.

[2] The term "initiated" as used hereinafter means the procedural action by which a Party formally commences an investigation as provided in paragraph 6 of Article 6.

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exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country.

2. Throughout this Code the term "like product" ("produit similaire") shall be interpreted to mean a product which is identical, i.e. alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.

3. In the case where products are not imported directly from the country of origin but are exported to the country of importation from an intermediate country, the price at which the products are sold from the country of export to the country of importation shall normally be compared with the comparable price in the country of export. However, comparison may be made with the price in the country of origin, if, for example, the products are merely transshipped through the country of export, or such products are not produced in the country of export, or there is no comparable price for them in the country of export.

4. When there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting country or when, because of the particular market situation, such sales do not permit a proper comparison, the margin of dumping shall be determined by comparison with a comparable price of the like product when exported to any third country which may be the highest such export price but should be a representative price, or with the cost of production in the country of origin plus a reasonable amount for administrative, selling and any other costs and for profits. As a general rule, the addition for profit shall not exceed the profit normally realized on sales of products of the same general category in the domestic market of the country of origin.

5. In cases where there is no export price or where it appears to the authorities[3] concerned that the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported products are first resold to an independent buyer, or if the products are not resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as the authorities may determine.

6. In order to effect a fair comparison between the export price and the domestic price in the exporting country (or the country of origin) or, if applicable, the price established pursuant to the provisions of Article VI:1(b) of the General Agreement, the two prices shall be compared at the same level of trade, normally at the ex-factory level, and in respect of sales made at as nearly as possible the same time. Due allowance shall be made in each case, on its merits, for the differences in conditions and terms of sale, for the differences in taxation, and for the other differences affecting price comparability. In the cases referred to in paragraph 5 of Article 2 allowance for costs, including duties and taxes, incurred between

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[3] When in this Code the term "authorities" is used, it shall be interpreted as meaning authorities at an appropriate, senior level.

importation and resale, and for profits accruing, should also be made.

7. This Article is without prejudice to the second Supplementary Provision to paragraph 1 of Article VI in Annex I of the General Agreement.

Article 3

DETERMINATION OF INJURY [4]

1. A determination of injury for purposes of Article VI of the General Agreement shall be based on positive evidence and involve an objective examination of both (a) the volume of the dumped imports and their effect on prices in the domestic market for like products, and (b) the consequent impact of these imports on domestic producers of such products.

2. With regard to volume of the dumped imports the investigating authorities shall consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in the importing country. With regard to the effect of the dumped imports on prices, the investigating authorities shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of a like product of the importing country, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. No one or several of these factors can necessarily give decisive guidance.

3. The examination of the impact on the industy concerned shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry such as actual and potential decline in output, sales, market share, profits, productivity, return on investments, or utilization of capacity; factors affecting domestic prices; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments. This list is not exhaustive, nor can one or several of these factors necessarily give decisive guidance.

4. It must be demonstrated that the dumped imports are, through the effects [5] of dumping, causing injury within the meaning of this Code. There may be other factors [6] which at the same time are injuring the industry, and the injuries caused by other factors must not be attributed to the dumped imports.

5. The effect of the dumped imports shall be assessed in relation to the domestic production of the like product when available data permit the separate identification of production in terms of such criteria as: the production process, the producers' realizations, profits. When the domestic production of the like product has no sepa-

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[4] Under this Code the term "injury" shall, unless otherwise specified, be taken to mean material injury to a domestic industy, threat of material injury to a domestic industry or material retardation of the establishment of such an industry and shall be interpreted in accordance with the provisions of this Article.

[5] As set forth in paragraphs 2 and 3 of this article.

[6] Such factors include, *inter alia*, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry.

rate identity in these terms the effects of the dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like products, for which the necessary information can be provided.

6. A determination of threat of injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the dumping would cause injury must be clearly foreseen and imminent.[7]

7. With respect to cases where injury is threatened by dumped imports, the application of anti-dumping measures shall be studied and decided with special care.

Article 4

DEFINITION OF INDUSTRY

1. In determining injury the term "domestic industry" shall be interpreted as referring to the domestic producers as a whole of the like products or to those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products, except that

(i) when producers are related[8] to the exporters or importers or are themselves importers of the allegedly dumped products, the industry may be interpreted as referring to the rest of the producers;

(ii) in exceptional circumstances the territory of a Party may, for the production in question, be divided into two or more competitive markets and the producers within each market may be regarded as a separate industry if (a) the producers within such market sell all or almost all of their production of the product in question in that market, and (b) the demand in that market is not to any substantial degree supplied by producers of the product in question located elsewhere in the territory. In such circumstances, injury may be found to exist even where a major portion of the total domestic industry is not injured provided there is a concentration of dumped imports into such an isolated market and provided further that the dumped imports are causing injury to the producers of all or almost all of the production within such market.

2. When the industry has been interpreted as referring to the producers in a certain area, i.e. a market as defined in paragraph 1(ii), anti-dumping duties shall be levied[9] only on the products in question consigned for final consumption to that area. When the constitutional law of the importing country does not permit the levying of anti-dumping duties on such a basis, the importing Party may levy the anti-dumping duties without limitation only if (1) the exporters shall have been given an opportunity to cease exporting

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[7] One example, though not an exclusive one, is that there is convincing reason to believe that there will be, in the immediate future, substantially increased importations of the product at dumped prices.

[8] An understanding among Parties should be developed defining the word "related" as used in this Code.

[9] As used in this Code "levy" shall mean the definitive or final legal assessment or collection of a duty or tax.

at dumped prices to the area concerned or otherwise give assurances pursuant to Article 7 of this Code, and adequate assurances in this regard have not been promptly given, and (2) such duties cannot be levied on specific producers which supply the area in question.

3. Where two or more countries have reached under the provisions of Article XXIV:8(a) of the General Agreement such a level of integration that they have the characteristics of a single, unified market, the industry in the entire area of integration shall be taken to be the industry referred to in paragraph 1 above.

4. The provisions of paragraph 5 of Article 3 shall be applicable to this Article.

Article 5

INITIATION AND SUBSEQUENT INVESTIGATION

1. An investigation to determine the existence, degree and effect of any alleged dumping shall normally be initiated upon a written request by or on behalf of the industry[10] affected. The request shall include sufficient evidence of the existence of (a) dumping; (b) injury within the meaning of Article VI of the General Agreement as interpreted by this Code and (c) a causal link between the dumped imports and the alleged injury. If in special circumstances the authorities concerned decide to initiate an investigation without having received such a request, they shall proceed only if they have sufficient evidence on all points under (a) to (c) above.

2. Upon initiation of an investigation and therafter, the evidence of both dumping and injury caused thereby should be considered simultaneously. In any event the evidence of both dumping and injury shall be considered simultaneously (a) in the decision whether or not to initiate an investigation, and (b) thereafter, during the course of the investigation, starting on a date not later than the earliest date on which in accordance with the provisions of this Code provisional measures may be applied, except in the cases provided for in paragraph 3 of Article 10 in which the authorities accept the request of the exporters.

3. An application shall be rejected and an investigation shall be terminated promptly as soon as the authorities concerned are satisfied that there is not sufficient evidence of either dumping or of injury to justify proceeding with the case. There should be immediate termination in cases where the margin of dumping or the volume of dumped imports, actual or potential, or the injury is negligible.

4. An anti-dumping proceeding shall not hinder the procedures of customs clearance.

5. Investigations shall, except in special circumstances, be concluded within one year after their initiation.

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[10] As defined in Article 4.

Article 6

EVIDENCE

1. The foreign supplier and all other interested parties shall be given ample opportunity to present in writing all evidence that they consider useful in respect to the anti-dumping investigation in question. They shall also have the right, on justification, to present evidence orally.

2. The authorities concerned shall provide opportunities for the complainant and the importers and exporters known to be concerned and the governments of the exporting countries, to see all information that is relevant to the presentation of their cases, that is not confidential as defined in paragraph 3 below, and that is used by the authorities in an anti-dumping investigation, and to prepare presentations on the basis of this information.

3. Any information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom he acquired the information) or which is provided on a confidential basis by parties to an anti-dumping investigation shall, upon cause shown, be treated as such by the investigating authorities. Such information shall not be disclosed without specific permission of the party submitting it.[11] Parties providing confidential information may be requested to furnish non-confidential summaries thereof. In the event that such parties indicate that such information is not susceptible of summary, a statement of the reasons why summarization is not possible must be provided.

4. However, if the authorities concerned find that a request for confidentiality is not warranted and if the supplier is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, the authorities would be free to disregard such information unless it can be demonstrated to their satisfaction from appropriate sources that the information is correct.[12]

5. In order to verify information provided or to obtain further details the authorities may carry out investigations in other countries as required, provided they obtain the agreement of the firms concerned and provided they notify the representatives of the government of the country in question and unless the latter object to the investigation.

6. When the competent authorities are satisfied that there is sufficient evidence to justify initiating an anti-dumping investigation pursuant to Article 5, the Party or Parties the products of which are subject to such investigation and the exporters and importers known to the investigating authorities to have an interest therein and the complainants shall be notified and a public notice shall be given. In determining whether to initiate an investigation, the investigating authority should take into account the position adopted

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[11] Parties are aware that in the territory of certain Parties disclosure pursuant to a narrowly drawn protective order may be required.

[12] Parties agree that requests for confidentiality should not be arbitrarily rejected.

by the affiliates of a complainant party which are resident in the territory of another Party.

7. Throughout the anti-dumping investigation all parties shall have a full opportunity for the defense of their interests. To this end, the authorities concerned shall, on request, provide opportunities for all directly interested parties to meet those parties with adverse interests, so that opposing views may be presented and rebuttal arguments offered. Provision of such opportunities must take account of the need to preserve confidentiality and of the convenience to the parties. There shall be no obligation on any part to attend a meeting and failure to do so shall not be prejudicial to that party's case.

8. In cases in which any interested party refuses access to, or otherwise does not provide, necessary information within a reasonable period or significantly impedes the investigation, preliminary and final findings,[13] affirmative or negative, may be made on the basis of the fact available.

9. The provisions of this article are not intended to prevent the authorities of a Party from proceeding expeditiously with regard to initiating an investigation, reaching preliminary or final findings, whether affirmative or negative, or from applying provisional or final measures, in accordance with the relevant provisions of this Code.

Article 7

PRICE UNDERTAKINGS

1. Proceedings may[14] be suspended or terminated without the imposition of provisional measures or anti-dumping duties upon receipt of satisfactory voluntary undertakings from any exporter to revise its prices or to cease exports to the area in question at dumped prices so that the authorities are satisfied that the injurious effect of the dumping is eliminated. Price increases under such undertakings shall not be higher than necessary to eliminate the margin of dumping.

2. Price undertakings shall not be sought or accepted from exporters unless the authorities of the importing country have initiated an investigation in accordance with the provisions of Article 5 of this Code. Undertakings offered need not be accepted if the authorities consider their acceptance impractical, for example, if the number of actual or potential exporters is too great, or for other reasons.

3. If the undertakings are accepted, the investigation of injury shall nevertheless be completed if the exporter so desires or the authorities so decide. In such a case, if a determination of no injury or threat thereof is made, the undertaking shall automatically lapse except in cases where a determination of no threat of injury is due in large part to the existence of a price undertaking. In such cases the authorities concerned may require that an undertaking

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[13] Because of different terms used under different systems in various countries the term "finding" is hereinafter used to mean a formal decision or determination.

[14] The word "may" shall not be interpreted to allow the simultaneous continuation of proceedings with the implementation of price undertakings except as provided in paragraph 3.

be maintained for a reasonable period consistent with the provisions of this Code.

4. Price undertakings may be suggested by the authorities of the importing country, but no exporter shall be forced to enter into such an undertaking. The fact that exporters do not offer such undertakings, or do not accept an invitation to do so, shall in no way prejudice the consideration of the case. However, the authorities are free to determine that a threat of injury is more likely to be realized if the dumped imports continue.

5. Authorities of an importing country may require any exporter from whom undertakings have been accepted to provide periodically information relevant to the fulfilment of such undertakings, and to permit verification of pertinent data. In case of violation of undertakings, the authorities of the importing country may take, under this Code in conformity with its provisions, expeditious actions which may constitute immediate application of provisional measures using the best information available. In such cases definitive duties may be levied in accordance with this Code on goods entered for consumption not more than ninety days before the application of such provisional measures, except that any such retroactive assessment shall not apply to imports entered before the violation of the undertaking.

6. Undertakings shall not remain in force any longer than anti-dumping duties could remain in force under this Code. The authorities of an importing country shall review the need for the continuation of any price undertaking, where warranted, on their own initiative or if interested exporters or importers of the product in question so request and submit positive information substantiating the need for such review.

7. Whenever an anti-dumping investigation is suspended or terminated pursuant to the provisions of paragraph 1 above and whenever an undertaking is terminated, this fact shall be officially notified and must be published. Such notices shall set forth at least the basic conclusions and a summary of the reasons therefor.

Article 8

IMPOSITION AND COLLECTION OF ANTI-DUMPING DUTIES

1. The decision whether or not to impose an anti-dumping duty in cases where all requirements for the imposition have been fulfilled and the decision whether the amount of the anti-dumping duty to be imposed shall be the full margin of dumping or less, are decisions to be made by the authorities of the importing country or customs territory. It is desirable that the imposition be permissive in all countries or customs territories Parties to this Agreement, and that the duty be less than the margin, if such lesser duty would be adequate to remove the injury to the domestic industry.

2. When an anti-dumping duty is imposed in respect of any product, such anti-dumping duty shall be collected in the appropriate amounts in each case, on a non-discriminatory basis on imports of such product from all sources found to be dumped and causing injury, except as to imports from those sources, from which price undertakings under the terms of this Code have been accepted. The authorities shall name the supplier or suppliers of the product con-

cerned. If, however, several suppliers from the same country are involved, and it is impracticable to name all these suppliers, the authorities may name the supplying country concerned. If several suppliers from more than one country are involved, the authorities may name either all the suppliers involved, or, if this is impracticable, all the supplying countries involved.

3. The amount of the anti-dumping duty must not exceed the margin of dumping as established under Article 2. Therefore, if subsequent to the application of the anti-dumping duty it is found that the duty so collected exceeds the actual dumping margin, the amount in excess of the margin shall be reimbursed as quickly as possible.

4. Within a basic price system the following rules shall apply, provided that their application is consistent with the other provisions of this Code:

If several suppliers from one or more countries are involved, anti-dumping duties may be imposed on imports of the product in question found to have been dumped and to be causing injury from the country or countries concerned, the duty being equivalent to the amount by which the export price is less than the basic price established for this purpose, not exceeding the lowest normal price in the supplying country or countries where normal conditions of competition are prevailing. It is understood that, for products which are sold below this already established basic price, a new anti-dumping investigation shall be carried out in each particular case, when so demanded by the interested parties and the demand is supported by relevant evidence. In cases where no dumping is found, anti-dumping duties collected shall be reimbursed as quickly as possible. Furthermore, if it can be found that the duty so collected exceeds the actual dumping margin, the amount in excess of the margin shall be reimbursed as quickly as possible.

5. Public notice shall be given of any preliminary or final finding whether affirmative or negative and of the revocation of a finding. In the case of affirmative finding each such notice shall set forth the findings and conclusions reached on all issues of fact and law considered material by the investigating authorities, and the reasons and basis therefor. In the case of a negative finding, each notice shall set forth at least the basic conclusions and a summary of the reasons therefor. All notices of findings shall be forwarded to the Party or Parties the products of which are subject to such finding and to the exporters known to have an interest therein.

Article 9

DURATION OF ANTI-DUMPING DUTIES

1. An anti-dumping duty shall remain in force only as long as, and to the extent necessary to counteract dumping which is causing injury.

2. The investigating authorities shall review the need for the continued imposition of the duty, where warranted, on their own initiative or if any interested party so requests and submits positive information substantiating the need for review.

Article 10

PROVISIONAL MEASURES

1. Provisional measures may be taken only after a preliminary affirmative finding has been made that there is dumping and that there is sufficient evidence of injury, as provided for in (a) to (c) of paragraph 1 of Article 5. Provisional measures shall not be applied unless the authorities concerned judge that they are necessary to prevent injury being caused during the period of investigation.

2. Provisional measures may take the form of a provisional duty or, preferably, a security—by cash deposit or bond—equal to the amount of the anti-dumping duty provisionally estimated, being not greater than the provisionally estimated margin of dumping. Withholding of appraisement is an appropriate provisional measure, provided that the normal duty and the estimated amount of the anti-dumping duty be indicated and as long as the withholding of appraisement is subject to the same conditions as other provisional measures.

3. The imposition of provisional measures shall be limited to as short a period as possible, not exceeding four months or, on decision of the authorities concerned, upon request by exporters representing a significant percentage of the trade involved to a period not exceeding six months.

4. The relevant provisions of Article 8 shall be followed in the application of provisional measures.

Article 11

RETROACTIVITY

1. Anti-dumping duties and provisional measures shall only be applied to products which enter for consumption after the time when the decision taken under paragraph 1 of Article 8 and paragraph 1 of Article 10, respectively, enters into force, except that in cases:

(i) Where a final finding of injury (but not of a threat thereof or of a material retardation of the establishment of an industry) is made or, in the case of a final finding of threat of injury, where the effect of the dumped imports would, in the absence of the provisional measures, have led to a finding of injury, anti-dumping duties may be levied retroactively for the period for which provisional measures, if any, have been applied.

If the anti-dumping duty fixed in the final decision is higher than the provisionally paid duty, the difference shall not be collected. If the duty fixed in the final decision is lower than the provisionally paid duty or the amount estimated for the purpose of the security, the difference shall be reimbursed or the duty recalculated, as the case may be.

(ii) Where for the dumped product in question the authorities determine

(a) either that there is a history of dumping which caused injury or that the importer was, or should have been, aware that the exporter practices dumping and that such dumping would cause injury, and

(b) that the injury is caused by sporadic dumping (massive dumped imports of a product in a relatively short period) to such an extent that, in order to preclude it recurring, it appears necessary to levy an anti-dumping duty retroactively on those imports,

the duty may be levied on products which were entered for consumption not more than 90 days prior to the date of application of provisional measures.

2. Except as provided in paragraph 1 above where a finding of threat of injury or material retardation is made (but no injury has yet occurred) a definitive anti-dumping duty may be imposed only from the date of the finding of threat of injury or material retardation and any cash deposit made during the period of the application of provisional measures shall be refunded and any bonds released in an expeditious manner.

3. Where a final finding is negative any cash deposit made during the period of the application of provisional measures shall be refunded and any bonds released in an expeditious manner.

Article 12

ANTI-DUMPING ACTION ON BEHALF OF A THIRD COUNTRY

(a) An application for anti-dumping action on behalf of a third country shall be made by the authorities of the third country requesting action.

(b) Such an application shall be supported by price information to show that the imports are being dumped and by detailed information to show that the alleged dumping is causing injury to the domestic industry concerned in the third country. The government of the third country shall afford all assistance to the authorities of the importing country to obtain any further information which the latter may require.

(c) The authorities of the importing country in considering such an application shall consider the effects of the alleged dumping on the industry concerned as a whole in the third country; that is to say the injury shall not be assessed in relation only to the effect of the alleged dumping on the industry's exports to the importing country or even on the industry's total exports.

(d) The decision whether or not to proceed with a case shall rest with the importing country. If the importing country decides that it is prepared to take action, the initiation of the approach to the CONTRACTING PARTIES seeking their approval for such action shall rest with the importing country.

Article 13

DEVELOPING COUNTRIES

It is recognized that special regard must be given by developed countries to the special situation of developing countries when considering the application of anti-dumping measures under this Code. Possibilities of constructive remedies provided for by this Code shall be explored before applying anti-dumping duties where they would affect the essential interests of developing countries.

PART II

Article 14

COMMITTEE ON ANTI-DUMPING PRACTICES

1. There shall be established under this Agreement a Committee on Anti-Dumping Practices (hereinafter referred to as the "Committee") composed of representatives from each of the Parties to this Agreement. The Committee shall elect its own Chairman and shall meet not less than twice a year and otherwise as envisaged by relevant provisions of this Agreement at the request of any Party. The Committee shall carry out responsibilities as assigned to it under this Agreement or by the Parties and it shall afford Parties the opportunity of consulting on any matters relating to the operation of the Agreement or the furtherance of its objectives. The GATT secretariat shall act as the secretariat to the Committee.

2. The Committee may set up subsidiary bodies as appropriate.

3. In carrying out their functions, the Committee and any subsidiary bodies may consult with and seek information from any source they deem appropriate. However, before the Committee or a subsidiary body seeks such information from a source within the jurisdiction of a Party, it shall inform the Party involved. It shall obtain the consent of the Party and any firm to be consulted.

4. Parties shall report without delay to the Committee all preliminary or final anti-dumping actions taken. Such reports will be available in the GATT secretariat for inspection by government representatives. The Parties shall also submit, on a semi-annual basis, reports of any anti-dumping actions taken within the preceding six months.

Article 15[15]

CONSULTATION, CONCILIATION AND DISPUTE SETTLEMENT

1. Each Party shall afford sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, representations made by another Party with respect to any matter affecting the operation of this Agreement.

2. If any Party considers that any benefit accruing to it, directly or indirectly, under this Agreement is being nullified or impaired, or that the achievement of any objective of the Agreement is being impeded by another Party or Parties, it may, with a view to reaching a mutually satisfactory resolution of the matter, request in writing consultations with the Party or Parties in question. Each Party shall afford sympathetic consideration to any request from another Party for consultation. The Parties concerned shall initiate consultation promptly.

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[15] If disputes arise between Parties relating to rights and obligations under this Agreement, Parties should complete the dispute settlement procedures under this Agreement before availing themselves of any rights which they have under the GATT.

3. If any Party considers that the consultation pursuant to paragraph 2 has failed to achieve a mutually agreed solution and final action has been taken by the administering authorities of the importing country to levy definitive anti-dumping duties or to accept price undertakings it may refer the matter to the Committee for conciliation. When a provisional measure has a significant impact and the Party considers the measure was taken contrary to the provisions of paragraph 1 of Article 10 of this Agreement, a Party may also refer such matter to the Committee for conciliation. In cases where matters are referred to the Committee for conciliation the Committee shall meet within thirty days to review the matter, and, through its good offices, shall encourage the Parties involved to develop a mutually acceptable solution.[16]

4. Parties shall make their best efforts to reach a mutually satisfactory solution throughout the period of conciliation. If no mutually agreed solution has been reached after detailed examination by the Committee under paragraph 3 within three months, the Committee shall, at the request of any party to the dispute, establish a panel to examine the matter, based upon:

(a) a written statement of the Party making the request indicating how a benefit accruing to it, directly or indirectly, under this Agreement has been nullified or impaired, or that the achieving of the objectives of the Agreement is being impeded, and

(b) the facts made available in conformity with appropriate domestic procedures to the authorities of the importing country.

5. Confidential information provided to the panel shall not be revealed without formal authorization from the person or authority providing the information. Where such information is requested from the panel but release of such information by the panel is not authorized, a non-confidential summary of the information, authorized by the authority or person providing the information, will be provided.

6. Further to paragraphs 1–6 the settlement of disputes shall *mutatis mutandis* be governed by the provisions of the Understanding regarding Notification, Consultation, Dispute Settlement and Surveillance (MTN/FR/W/20/Rev.2). Panel members shall have relevant experience and be selected from Parties not parties to the dispute.

PART III

Article 16

FINAL PROVISIONS

1. No specific action against dumping of exports from another Party can be taken except in accordance with the provisions of the General Agreement, as interpreted by this Agreement.[17]

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[16] In this connection the Committee may draw Parties' attention to those cases in which, in its view, there are no reasonable bases supporting the allegations made.

[17] This is not intended to preclude action under other relevant provisions of the General Agreement, as appropriate.

Acceptance and accession

2. (a) This Agreement shall be open for acceptance by signature or otherwise, by governments contracting parties to the GATT and by the European Economic Community.

(b) This Agreement shall be open for acceptance by signature or otherwise by governments having provisionally acceded to the GATT on terms related to the effective application of rights and obligations under this Agreement, which take into account rights and obligations in the instruments providing for their provisional accession.

(c) This Agreement shall be open to accession by any other governments on terms, related to the effective application of rights and obligations under this Agreement, to be agreed between that government and the Parties, by the deposit with the Director-General to the CONTRACTING PARTIES to the GATT of an instrument of accession which states the terms so agreed.

(d) In regard to acceptance, the provisions of Article XXVI:5 (a) and (b) of the General Agreement would be applicable.

Reservations

3. Reservations may not be entered in respect of any of the provisions of this Agreement without the consent of the other Parties.

Entry into force

4. This Agreement shall enter into force on 1 January 1980 for the governments[18] which have accepted or acceded to it by that date. For each other government it shall enter into force on the thirtieth day following the date of its acceptance or accession to this Agreement.

Denunciation of the 1967 Agreement

5. Acceptance of this Agreement shall carry denunciation of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, done at Geneva on 30 June 1967, which entered into force on 1 July 1968, for Parties to the 1967 Agreement. Such denunciation shall take effect for each Party to this Agreement on the date of entry into force of this Agreement for each such Party.

National legislation

6. (a) Each government accepting or acceding to this Agreement shall take all necessary steps, of a general or particular character, to ensure, not later than the date of entry into force of this Agreement for it, the conformity of its laws, regulations and administrative procedures with the provisions of this Agreement as they may apply for the Party in question.

(b) Each Party shall inform the Committee of any changes in its laws and regulations relevant to this Agreement and in the administration of such laws and regulations.

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[18] The term "government" is deemed to include the competent authorities of the European Economic Community.

Review

7. The Committee shall review annually the implementation and operation of this Agreement taking into account the objectives thereof. The Committee shall annually inform the CONTRACTING PARTIES to the GATT of developments during the period covered by such reviews.

Amendments

8. The Parties may amend this Agreement having regard, *inter alia*, to the experience gained in its implementation. Such an amendment, once the Parties have concurred in accordance with procedures established by the Committee, shall not come into force for any Party until it has been accepted by such Party.

Withdrawal

9. Any Party may withdraw from this Agreement. The withdrawal shall take effect upon the expiration of sixty days from the day on which written notice of withdrawal is received by the Director-General to the CONTRACTING PARTIES to the GATT. Any Party may upon such notification request an immediate meeting of the Committee.

Nonapplication of this Agreement between particular Parties

10. This Agreement shall not apply as between any two Parties if either of the Parties, at the time either accepts or accedes to this Agreement, does not consent to such application.

Secretariat

11. This Agreement shall be serviced by the GATT secretariat.

Deposit

12. This Agreement shall be deposited with the Director-General to the CONTRACTING PARTIES to the GATT, who shall promptly furnish to each Party and each contracting party to the GATT a certified copy thereof and of each amendment thereto pursuant to paragraph 8, and a notification of each acceptance thereof or accession thereto pursuant to paragraph 2, and of each withdrawal therefrom pursuant to paragraph 9 of this Article.

Registration

13. This Agreement shall be registered in accordance with the provisions of article 102 of the Charter of the United Nations.

Done at Geneva this twelfth day of April nineteen hundred and seventy-nine in a single copy, in the English, French and Spanish languages, each text being authentic.

ADDENDUM

The following statement is circulated at the request of the delegations of Austria, Canada, European Communities, Japan, Sweden, Switzerland and the United States.

With regard to the Agreement on Implementation of Article VI of the General Agreement on tariffs and Trade (MTN/NTM/W/232 and Add.1 and Corr.1) it is understood that paragraph 6 of Article

15 of the Agreement concerning the settlement of disputes arising under the Agreement is to be interpreted to mean that the measures which may be authorized by the Committee on Anti-Dumping Practices for the purpose of the Agreement may include all such measures as can be authorized under Articles XXII and XXIII of the General Agreement.

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4. International Wheat Agreement

a. Wheat Trade Convention, 1971 (amended)[1]

Open for signature at Washington March 29 through May 3, 1971; Ratification advised by the Senate of the United States of America July 12, 1971; Ratified by the President of the United States of America July 24, 1971; Ratification of the United States of America deposited July 24, 1971; Proclaimed by the President of the United States of America July 30, 1971; Entered into force provisionally for the United States of America with respect to certain parts June 18, 1971, and with respect to the remaining parts July 1, 1971; Entered into force definitively for the United States of America July 24, 1971

INTERNATIONAL WHEAT AGREEMENT, 1971

PREAMBLE

The United Nations Wheat Conference, 1971,

Considering that the International Wheat Agreement of 1949 was revised, renewed or extended in 1953, 1956, 1959, 1962, 1965, 1966 and 1967,[2]

Considering that the provisions of the International Grains Arrangement 1967,[3] consisting of the Wheat Trade Convention, on the one hand, and the Food Aid Convention on the other, will expire on 30 June 1971 and that it is desirable to conclude an Agreement for a new period,

Has agreed that this International Wheat Agreement 1971 shall consist of two separate legal instruments

(a) the Wheat Trade Convention, 1971 and

(b) the Food Aid Convention, 1971.[4]

and that either the Wheat Trade Convention, 1971 or both the Wheat Trade Convention, 1971 and the Food Aid Convention, 1971, as appropriate, shall be submitted for signature, ratification, acceptance or approval, if conformity with their respective constitutional procedures, by the Governments represented at the United Nations Wheat Conference, 1971 and by the Governments of States party to the Wheat Trade Convention of the International Grains Arrangements 1967.

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[1] 22 UST 820: TIAS 7144. For a list of states which are parties to the Convention, see Department of State publication *Treaties in Force*. See page 352 for the Protocol modifying and further extending the Convention.

[2] TIAS 1957, 2799, 3709, 4302, 5115, 5844, 6057, 6315; 63 Stat. (2) 2173; 4 UST 944; 7 UST 3275; 10 UST 1477; 13 UST 1571; 16 UST 1010; 17 UST 948; 18 UST 1699.

[3] TIAS 6537; 19 UST 5499.

[4] This Convention was terminated on June 30, 1980 and replaced by the Food Aid Convention, 1980. See page 345 for text.

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WHEAT TRADE CONVENTION, 1971

PART I—GENERAL

ARTICLE 1

Objectives

The objectives of this Convention are:

(a) To further international co-operation in connection with world wheat problems, recognizing the relationship of the trade in wheat to the economic stability of markets for other agricultural products;

(b) To promote the expansion of the international trade in wheat and wheat flour and to secure the freest possible flow of this trade in the interests of both exporting and importing members, and thus contribute to the development of countries, the economies of which depend on commercial sales of wheat;

(c) To contribute to the fullest extent possible to the stability of the international wheat market in the interests of both importing and exporting members; and

(d) To provide a framework, in conformity with Article 21 of the present Convention, for the negotiation of provisions relating to the prices of wheat and to the rights and obligations of members in respect of international trade in wheat.

ARTICLE 2

Definitions

For the purposes of this Convention:

(1)(a) "Council" means the International Wheat Council established by the International Wheat Agreement 1949 and continued in being by Article 10;

(b) "Member" means a party to this Convention or a territory or a group of territories in respect of which a notification has been made pursuant to paragraph (3) of Article 28;

(c) "Exporting member" means a member listed in Annex A;

(d) "Importing member" means a member listed in Annex B;

(e) "Territory" in relation to an exporting or importing member includes any territory in respect of which the rights and obligations of that member under this Convention apply under Article 28;

(f) "Executive Committee" means the Committee established under Article 15;

(g) "Advisory Sub-committee on Market Conditions" means the Sub-committee established under Article 16;

(h) "Grains" means wheat, rye, barley, oats, maize and sorghum;

(i) "Wheat" includes wheat grain of any description, class, type, grade or quality and, except where the context otherwise requires, wheat flour;

(j) "Crop year" means the period from 1 July to 30 June;

(k) "Bushel" means in the case of wheat sixty pounds avoirdupois or 27.2155 kilogrammes;

(l) "Metric ton", or 1,000 kilogrammes, means in the case of wheat 36.74371 bushels;

(m)(i) "Purchase" means a purchase for import of wheat exported or to be exported from an exporting member or from other than an exporting member, as the case may be, or the quantity of such wheat so purchased, as the context requires;

(ii) "Sale" means a sale for export of wheat imported or to be imported by an imported member or by other than an importing member, as the case may be, or the quantity of such wheat so sold, as the context requires;

(iii) Where reference is made in this Convention to a purchase or sale, it shall be understood to refer not only to purchases or sales concluded between the Governments concerned but also to purchases or sales concluded between private traders and to purchases or sales concluded between a private trader and the Government concerned. In this definition "Government" shall be deemed to include the Government of any territory in respect of which the rights and obligations of any Government ratifying, accepting, approving or acceding to this Convention apply under Article 28;

(n) Any reference in this Convention to a "Government represented at the United Nations Wheat Conference, 1971" shall be construed as including a reference to the European Economic Community (hereinafter referred to as the EEC). Accordingly, any reference in this Convention to "signature" or to the "deposit of instruments of ratification, acceptance or approval" or "an instrument of accession" or a "declaration of provisional application" by a Government shall, in the case of the EEC be construed as including signature or declaration of provisional application on behalf of the EEC by its competent authority and the deposit of the instrument required by the institutional procedures of the EEC to be deposited for the conclusion of an international agreement.

(2) All calculations of the wheat equivalent of purchases of wheat flour shall be made on the basis of the rate of extraction indicated by the contract between the buyer and the seller. If no such rate is indicated, seventy-two units by weight of wheat flour shall, for the purpose of such calculations, be deemed to be equivalent to one hundred units by weight of wheat grain unless the Council decides otherwise.

ARTICLE 3

Commercial purchases and special transactions

(1) A Commercial purchase for the purposes of this Convention is a purchase as defined in Article 2 which conforms to the usual commercial practices in international trade and which does not include those transactions referred to in paragraph (2) of this Article.

(2) A special transaction for the purposes of this Convention is one which includes features introduced by the Government of a member concerned which do not conform to usual commercial practices. Special transactions include the following:

(a) Sales on credit in which, as a result of Government intervention, the interest rate, period of payment, or other related terms do not conform to the commercial rate, periods or terms prevailing in the world market;

(b) Sales in which the funds for the purchase of wheat are obtained under a loan from the Government of the exporting member tied to the purchase of wheat:

(c) Sales for currency of the importing member which is not transferable, or convertible into currency or goods for use in the exporting member;

(d) Sales under trade agreements with special payments arrangements which include clearing accounts for settling credit balances bilaterally through the exchange of goods, except where the exporting member and the importing member concerned agree that the sale shall be regarded as commercial;

(e) Barter transactions:

(i) which result from the intervention of governments where wheat is exchanged at other than prevailing world prices, or

(ii) which involves sponsorship under a government purchase programme, except where the purchase of which results from a barter transaction in which the country of final destination was not named in the original barter contract;

(f) A gift of wheat or purchase of wheat out of a monetary grant by the exporting member made for that specific purpose;

(g) Any other categories of transactions, as the Council may prescribe, that include features introduced by the Government of a member concerned which do not conform to usual commercial practices.

(3) Any question raised by the Executive Secretrary or by any exporting or importing member as to whether a transaction is a commercial purchase as defined in paragraph (1) of this Article or a special transaction as defined in paragraph (2) of this Article shall be decided by the Council.

ARTICLE 4

Recording and reporting

(1) The Council shall keep separate records for each crop year:

(a) for the purposes of the operation of this Convention, of all commercial purchases by members from other members and nonmembers and of all imports by members from other members and non-members on terms which render them special transactions; and

(b) of all commercial sales by members to non-members and of all exports by members to non-members on terms which render them special transactions.

(2) The records referred to in the preceding paragraph shall be kept so that records of special transactions are separate from records of commercial transactions.

(3) In order to facilitate the operation of the Advisory Sub-Committee on Market Conditions under Article 16, the Council shall keep records of international market prices for wheat and wheat flour and of transportation costs.

(4) In the case of any wheat which reaches the country of final destination after re-sale in, passage through, or trans-shipment from the ports of, a country other than that in which the wheat

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originated, members shall to the maximum extent possible make available such information as will enable the purchase or transaction to be entered in the records referred to in paragraphs (1) and (2) of this Article as a purchase or transaction between the country of origin and the country of final destination. In the case of a resale, the provisions of this paragraph shall apply if the wheat originated in the country of origin during the same crop year.

(5) The Council may authorize purchases to be recorded for a crop year if:

(a) the loading period involved is within a reasonable time up to one month, to be decided by the Council, before the beginning or after the end of that crop year; and

(b) the two members concerned so agree.

(6) For the purpose of this Article:

(a) members shall send to the Executive Secretary such information concerning the quantities of wheat involved in commercial sales and purchases and special transactions as the Council within its competence may require, including:

(i) in relation to special transactions, such detail of the transactions as will enable them to be classified in accordance with Article 3;

(ii) in respect of wheat, such information as may be available as to the type, class, grade and quality, and the quantities relating thereto;

(iii) in respect of flour, such information as may be available to identify the quality of the flour and the quantities relating to each separate quality;

(b) members when exporting on a regular basis, and such other members as the Council shall decide, shall send to the Executive Secretary such information relating to prices of commercial and, where available, special transactions in such descriptions, classes, types, grades and qualities of wheat and wheat flour as the Council may require.

(c) the Council shall obtain regular information on currently prevailing transportation costs, and members shall to the extent practicable report such supplementary information as the Council may require.

(7) The Council shall make rules of procedure for the reports and records referred to in this Article. Those rules shall prescribe the frequency and the manner in which those reports shall be made and shall prescribe the duties of members with regard thereto. The Council shall also make provision for the amendment of any records or statements kept by it, including provision for the settlement of any dispute arising in connection therewith. If any member repeatedly and unreasonably fails to make reports as required by this Article, the Executive Committee shall arrange consultations with that member to remedy the situation.

ARTICLE 5

Estimates of requirements and availability of wheat

(1) By 1 October in the case of Northern Hemisphere countries and 1 February in the case of Southern Hemisphere countries, each importing member shall notify the Council of its estimate of its

commercial import requirements of wheat in that crop year. Any importing member may thereafter notify the Council of any changes it may desire to make in its estimate.

(2) By 1 October in the case of Northern Hemisphere countries and 1 February in the case of Southern Hemisphere countries, each exporting member shall notify the Council of its estimate of the wheat it will have available for export in that crop year. Any exporting member may thereafter notify the Council of any changes it may desire to make in its estimate.

(3) All estimates notified to the Council shall be used for the purpose of the administration of this Convention and may only be made available to exporting and importing members on such conditions as the Council may prescribe. Estimates submitted in accordance with this Article shall in no way be binding.

ARTICLE 6

Consultations on market conditions

(1) If the Advisory Sub-Committee on Market Conditions, in the course of its continuous review of the market under paragraph (2) of Article 16, is of the opinion that a situation of market instability has arisen or threatens imminently to arise, or if such a situation is called to the Advisory Sub-Committee's attention by the Executive Secretary on his own initiative or at the request of any exporting or importing member it shall immediately report the facts concerned to the Executive Committee. The Advisory Sub-Committee shall in so informing the Executive Committee give particular regard to those circumstances which have brought about, or threaten to bring about, the situation of market instability, including price fluctuations. The Executive Committee shall meet within five market days to review the situation and to consider whether it would be possible to arrive at mutually acceptable solutions.

(2) The Executive Committee shall, if it considers it appropriate, inform the Chairman of the Council who may convene a session of the Council to review the situation.

ARTICLE 7

Disputes and complaints

(1) Any dispute concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of any member which is a party to the dispute, be referred to the Council for decision.

(2) Any member which considers that its interests as a party to this Convention have been seriously prejudiced by actions of any one or more members affecting the operation of this Convention may bring the matter before the Council. In such a case, the Council shall immediately consult with the members concerned in order to resolve the matter. If the matter is not resolved through such consultations, the Council shall consider the matter further and may make recommendations to the members concerned.

ARTICLE 8

Annual review of the world wheat situation

(1)(a) In the furtherance of the objectives of this Convention as set forth in Article 1, the Council shall annually review the world wheat situation and shall inform members of the effects upon the international trade in wheat of the facts which emerge from the review, in order that these effects be kept in mind by these members in determining and administering their internal agricultural and price policies.

(b) The review shall be carried out in the light of information obtainable in relation to national production, stocks, consumption, prices and trade, including both commercial and special transactions of wheat.

(c) Each member may submit to the Council information which is relevant to the annual review of the world wheat situation and is not already available to the Council either directly or through the appropriate organization in the United Nations system including the United Nations Conference on Trade and Development (UNCTAD) and the Food and Agriculture Organization of the United Nations (FAO).

(2) In carrying out the annual review, the Council shall consider the means through which the consumption of wheat may be increased, and may undertake, in co-operation with members, studies of such matters as:

(a) factors affecting the consumption of wheat in various countries, and

(b) means of achieving increased consumption, particularly in countries where the possibility of increased consumption is found to exist.

(3) For the purposes of this Article, the Council shall take into account work done on grains by UNCTAD and the FAO and by other intergovernmental organizations, in order to avoid duplication of work, and may, without prejudice to the generality of paragraph (1) of Article 20, make such arrangements regarding co-operation in any of its activities as it considers desirable with such intergovernmental organizations and also with any Governments of Members of the United Nations or of the specialized agencies not party to this Convention which have a substantial interest in the international trade in grains.

(4) Nothing in this Article shall prejudice the complete liberty of action of any member in the determination and administration of its internal agricultural and price policies.

ARTICLE 9

Guidelines relating to concessional transactions

(1) Members undertake to conduct any concessional transactions in wheat in such a way to avoid harmful interference with normal patterns of production and international commercial trade.

(2) To this end members shall undertake appropriate measures to ensure that concessional transactions are additional to commercial sales which could reasonably be anticipated in the absence of such transactions. Such measures shall be consistent with the Principles

of Surplus Disposal and Guiding Lines recommended by the FAO and may provide that a specified level of commercial imp[illegible]s of wheat, agreed with the recipient country, be maintained [illegible] a global basis by that country. In establishing or adjusting this level full regard shall be had to the commercial import levels in a representative period and to the economic circumstances of the recipient country, including, in particular, its balance-of-payments situation.

(3) Members, when engaging in concessional export transactions, shall consult with exporting members whose commercial sales might be affected by such transactions, to the maximum possible extent before such arrangements are concluded with recipient countries.

(4) The Executive Committee shall furnish an annual report to the Council on developments in concessional transactions in wheat.

PART II—ADMINISTRATION

ARTICLE 10

Constitution of the Council

(1) The International Wheat Council, established by the International Wheat Agreement 1949, shall continue in being for the purpose of administering this Convention with the membership, powers and functions provided in this Convention.

(2) Each exporting and importing member shall be a voting member of the Council and may be represented at its meetings by one delegate, alternates, and advisers.

(3) Such intergovernmental organizations as the Council may decide to invite to any of its meetings may each have one non-voting representative in attendance at those meetings.

(4) The Council shall elect a Chairman and Vice-Chairman who shall hold office for one crop year. The Chairman shall have no vote and the Vice-Chairman shall have no vote while acting as Chairman.

ARTICLE 11

Powers and functions of the Council

(1) The Council shall establish its Rules of Procedure.

(2) The Council shall keep such records as are required by the terms of this Convention and may keep such other records as it considers desirable.

(3) The Council shall publish an annual report and may also publish any other information (including, in particular, its annual review or any part or summary thereof) concerning matters within the scope of this Convention.

(4) In addition to the powers and functions specified in this Convention the Council shall have such other powers and perform such other functions as are necessary to carry out the terms of this Convention.

(5) The Council may, by two-thirds of the votes cast by the exporting members and two-thirds of the votes cast by the importing members, delegate to any of its committees or to the Executive Secretary the exercise of powers or functions other than those relating to the budget and assessment of contributions contained in para-

graphs (2) and (3) of Article 19. The Council may at any time revoke such delegation by a majority of the votes cast. Any decision made under any powers or functions delegated by the Council in accordance with this paragraph shall be subject to review by the Council at the request of any exporting or importing members made within a period which the Council shall prescribed. Any decision in respect of which no request for review has been made within the prescribed period shall be binding on all members.

(6) In order to enable the Council to discharge its functions under this Convention, the Council may request, and members undertake to supply, such statistics and information as are necessary for this purpose.

ARTICLE 12

Votes

(1) The exporting members shall together hold 1,000 votes and the importing members shall together hold 1,000 votes.

(2) The votes to be exercised by the respective delegations of exporting members on the Council shall be those specified in Annex A.

(3) The votes to be exercised by the respective delegations of importing members on the Council shall be those specified in Annex B.

(4) Any exporting member may authorize any other exporting member, and any importing member may authorize any other importing member, to represent its interests and to exercise its votes at any meeting or meetings of the Council. Satisfactory evidence of such authorization shall be submitted to the Council.

(5) If at any meeting of the Council an exporting member or an importing member is not represented by an accredited delegate and has not authorized another member to exercise its votes in accordance with paragraph (4) of this Article, and if at the date of any meeting any member has forfeited, has been deprived of, or has recovered its votes under any provisions of this Convention, the total votes to be exercised by the exporting members shall be adjusted to a figure equal to the total of votes to be exercised at that meeting by the importing members and redistributed among exporting members in proportion to their votes.

(6) Whenever any country becomes or any member ceases to be a party to this Convention, the Council shall redistribute the votes within either Annex A or Annex B, as the case may be, proportionally to the number of votes held by each member listed in that Annex.

(7) No exporting or importing member shall have less than one vote and there shall be no fractional votes.

ARTICLE 13

Seat, sessions and quorum

(1) The seat of the Council shall be London unless the Council decides otherwise.

(2) The Council shall meet at least once during each half of each crop year and at such other times as the Chairman may decide, or as otherwise required by this Convention.

(3) The Chairman shall convene a session of the Council if so requested by (a) five members or (b) one or more members holding a total of not less than 10 percent of the total votes or (c) the Executive Committee.

(4) The presence of delegates with a majority of the votes held by the exporting members and a majority of the votes held by the importing members prior to any adjustment of votes under Article 12 shall be necessary to constitute a quorum at any meeting of the Council.

ARTICLE 14

Decisions

(1) Except where otherwise specified in this Convention, decisions of the Council shall be by a majority of the votes cast by the exporting members and a majority of the votes cast by the importing members, counted separately.

(2) Each member undertakes to accept as binding all decisions of the Council under the provisions of this Convention.

ARTICLE 15

Executive Committee

(1) The Council shall establish an Executive Committee. The members of the Executive Committee shall be not more than four exporting members elected annually by the exporting members and not more than eight importing members elected annually by the importing members. The Council shall appoint the Chairman of the Executive Committee and may appoint a Vice-Chairman.

(2) The Executive Committee shall be responsible to and work under the general direction of the Council. It shall have such powers and functions as are expressly assigned to it under this Convention and such other powers and functions as the Council may delegate to it under paragraph (5) of Article 11.

(3) The exporting members on the Executive Committee shall have the same total number of votes as the importing members. The votes of the exporting members on the Executive Committee shall be divided among them as they shall decide, provided that no such exporting member shall have more than 40 per cent of the total votes of those exporting members. The votes of the importing members on the Executive Committee shall be divided among them as they shall decide, provided that no such importing member shall have more than 40 per cent of the total votes of those importing members.

(4) The Council shall prescribe rules of procedure regarding voting in the Executive Committee and may make such other provision regarding rules of procedure in the Executive Committee as it thinks fit. A decision of the Executive Committee shall require the same majority of votes as this Convention prescribes for the Council when making a decision on a similar matter.

(5) Any exporting or importing member which is not a member of the Executive Committee may participate, without voting, in the discussion of any question before the Executive Committee whenever the latter considers that the interests of that member are affected.

ARTICLE 16

Advisory Sub-Committee on Market Conditions

(1) The Executive Committee shall establish an Advisory Sub-Committee on Market Conditions consisting of technical representatives of not more than five exporting members and of not more than five importing members. The Chairman of the Advisory Sub-Committee shall be appointed by the Executive Committee.

(2) The Advisory Sub-Committee shall keep under continuous review current market conditions and shall report to the Executive Committee as provided in Article 6. The Advisory Sub-Committee shall, in the exercise of its functions, take into account any representations made by any exporting or importing member.

(3) Any member which is not a member of the Advisory Sub-Committee may participate in the discussion of any question before the Advisory Sub-Committee whenever the latter considers that the interests of that member are directly affected.

(4) The Advisory Sub-Committee shall advise in accordance with the relevant Articles of this Convention and on such other matters as the Council or the Executive Committee may refer to it, including such matters as the Council may refer to it under Article 21 of this Convention.

ARTICLE 17

Secretariat

(1) The Council shall have a Secretariat consisting of an Executive Secretary, who shall be its chief administrative officer, and such staff as may be required for the work of the Council and its Committees.

(2) the Council shall appoint the Executive Secretary who shall be responsible for the performance of the duties devolving upon the Secretariat in the administration of this Convention and for the performance of such other duties as are assigned to him by the Council and its Committees.

(3) The staff shall be appointed by the Executive Secretary in accordance with regulations established by the Council.

(4) It shall be a condition of employment of the Executive Secretary and of the staff that they do not hold or shall cease to hold financial interest in the trade in wheat and that they shall not seek or receive instructions regarding their duties under this Convention from any Government or from any other authority external to the Council.

ARTICLE 18

Privileges and immunities

(1) The Council shall have legal personality. It shall in particular have the capacity to contract, acquire and dispose of movable and immovable property and to institute legal proceedings.

(2) The status, privileges and immunities of the Council in the territory of the United Kingdom shall continue to be governed by the headquarters Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the International Wheat Council signed at London on 28 November 1968.

(3) The Agreement referred to in paragraph (2) of this Article shall be independent of the present Convention. It shall however terminate:

(a) by agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Council, or

(b) in the event of the seat of the Council being moved from the United Kingdom, or

(c) in the event of the Council ceasing to exist.

(4) In the event of the seat of the Council being moved from the United Kingdom, the Government of the member in which the seat of the Council is situated shall conclude with the Council an international agreement relating to the status, privileges and immunities of the Council, its Executive Secretary, its staff and representatives of members at meetings convened by the Council.

ARTICLE 19

Finance

(1) The expenses of delegations to the Council and of representatives on its Committees and Sub-Committees shall be met by their respective Governments. The other expenses necessary for the administration of this Convention shall be met by annual contributions from the exporting and importing members. The contribution of each such member from each crop year shall be in the proportion which the number of its votes bears to the total of the votes of the exporting and importing members at the beginning of that crop year.

(2) At its first session after this Convention comes into force, the Council shall approve its budget for the period ending 30 June 1972 and assess the contribution to be paid by each exporting and importing member.

(3) The Council shall, at a session during the second half of each crop year, approve its budget for the following crop year and assess the contribution to be paid by each exporting and importing member for that crop year.

(4) [Deemed inoperative as of July 1, 1976 by Article 2(a) of the Protocol for the Extension of the Wheat Trade Convention, 1971.]

(5) Contributions shall be payable immediately upon assessment. Any exporting or importing member failing to pay its contribution within one year of its assessment shall forfeit its voting rights until its contribution is paid, but shall not be relieved of its obligations

under this Convention, nor shall it be deprived of any of its rights under this Convention unless the Council so decides.

(6) The Council shall, each crop year, publish an audited statement of its receipts and expenditures in the previous crop year.

(7) The Council shall, prior to its dissolution, provide for the settlement of its liabilities and the disposal of its records and assets.

ARTICLE 20

Co-operation with other intergovernmental organizations

(1) The Council may make whatever arrangements are appropriate for consultation or co-operation with the United Nations and its organs, in particular UNCTAD, and with the FAO and such other specialized agencies of the United Nations and intergovermental organizations as may be appropriate.

(2) The Council, bearing in mind the particular role of UNCTAD in international commodity trade, will, as it considers appropriate, keep UNCTAD informed of its activities and programmes of work.

(3) If the Council finds that any terms of this Convention are materially inconsistent with such requirements as may be laid down by the United Nations or through its appropriate organs and specialized agencies regarding intergovernmental commodity agreements, the inconsistence shall be deemed to be a circumstance affecting adversely the operation of this Convention and the procedures prescribed in paragraphs (2), (3) and (4) of Article 27 shall be applied.

ARTICLE 21

Prices and related rights and obligations.

In order to assure supplies of wheat and wheat flour to importing members and markets for wheat and wheat flour to exporting members at equitable and stable prices, the Council shall at an appropriate time examine the questions of prices and related rights and obligations. When it is judged that these matters are capable of successful negotiation with the objective of bringing them into effect within the life of this Convention, the Council shall request the Secretary-General of UNCTAD to convene a negotiating conference.

[Articles 22 through 26 are deemed inoperative as of July 1, 1976 by Article 2(b) of the Protocol for the Extension of the Wheat Trade Convention, 1971.]

ARTICLE 27

Duration, amendment and withdrawal

(1) [Deemed inoperative as of July 1, 1976 by Article 2(c) of the Protocol for the Extension of the Wheat Trade Convention, 1971.]

(2) The Council may recommend an amendment of this Convention to the members.

(3) The Council may fix a time within which each member shall notify the Government of the United States of America whether or not it accepts the amendment. The amendment shall become effective upon its acceptance by exporting members which hold two-thirds of the votes of the exporting members and by importing

members which hold two-thirds of the votes of the importing members.

(4) Any member which has not notified the Government of the United States of America of its acceptance of an amendment by the date on which such amendment becomes effective, may, after giving such written notice of withdrawal to the Government of the United States of America as the Council may require in each case, withdraw from this Convention at the end of the current crop year, but shall not thereby be released from any obligations under this Convention which have not been discharged by the end of that crop year. Any such withdrawing member shall not be bound by the provision of the amendment occasioning its withdrawal. If any member satisfies the Council at its first meeting following the effective date of the amendment that its acceptance could not be secured in time by reason of constitutional or institutional difficulties and declares its intention to apply the amendment provisionally pending acceptance of that amendment, the Council may extend for such member the period fixed for acceptance until these difficulties have been overcome.

(5) If any member considers that its interests are prejudiced by operation of this Convention, it may state its case to the Council and the Council shall, within thirty days, examine the matter. If the member concerned considers that notwithstanding the Council's intervention its interests continue to be prejudiced, it may withdraw from this Convention at the end of any crop year by giving written notice of withdrawal to the Government of the United States of America at least ninety days prior to the end of that crop year, but shall not, thereby, be released from any obligations under this Convention which have not been discharged by the end of that crop year.

(6) Any member which becomes a member State of the EEC during the currency of the Convention shall notify the Council, and the Council shall within thirty days consider the matter with a view to negotiating with that member and the EEC an appropriate adjustment of their respective rights and obligations under this Convention. The Council shall have power, in such circumstances, to recommend an amendment in accordance with paragraph (2) of this Article.

ARTICLE 28

Territorial application

(1) Any Government may, at the time of signature or ratification, acceptance, approval, provisional application of or accession to this Convention declare that its rights and obligations under this Convention shall not apply in respect of one or more of the territories for the international relations of which it is responsible.

(2) With the exception of territories in respect of which a declaration has been made in accordance with paragraph (1) of this Article, the rights and obligations of any Government under this Convention shall apply in respect of all territories for the international relations of which that Government is responsible.

(3) Any member may, at any time after its ratification, acceptance, approval, provisional application of or accession to this Con-

vention, by notification to the Government of the United States of America, declare that its rights and obligations under this Convention shall apply in respect of one or more of the territories regarding which it has made a declaration in accordance with paragraph (1) of this Article.

(4) Any member, may, by giving notification of withdrawal to the Government of the United States of America, withdraw from this Convention separately in respect of one or more of the territories for whose international relations it is responsible.

(5) When a territory to which this Convention extends under paragraphs (2) and (3) of this Article subsequently attains independence, the Government of that territory may, within ninety days after the attainment of independence, declare by notification to the Government of the United States of America that it has assumed the rights and obligations of a party to this Convention.

(6) For the purposes of the redistribution of votes under Article 12, any change in the application of this Convention in accordance with this Article shall be regarded as a change in participation in this Convention in such a manner as may be appropriate to the circumstances.

[Articles 29 through 31 are deemed inoperative as of July 1, 1976, by Article 2(d) of the Protocol for the extension of the Wheat Trade Convention, 1971.]

ANNEX A

VOTES OF EXPORTING MEMBERS

Australia	100	Spain	5
Argentina	100	Sweden	10
Bulgaria	5	United States of America	280
Canada	280	Union of Soviet Socialist Republics.	100
European Economic Community	100	Uruguay	5
Greece	5		
Kenya	5	Total	1,000
Mexico	5		

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ANNEX B

VOTES OF IMPORTING MEMBERS

Algeria	14
Austria	1
Barbados	1
Boliva	5
Brazil	71
Ceylon	17
China	19
Columbia	8
Costa Rica	3
Cuba	2
Denmark	1
Dominican Republic	1
Ecuador	3
El Salvador	2
European Economic Community	152
Finland	2
Guatemala	3
India	34
Indonesia	7
Iran	2
Ireland	7
Israel	5
Japan	178
Kingdom of the Netherlands[1]	1
Korea, Republic of	16
Kuwait	3
Lebanon	9
Libya	5
Malta	2
Mauritus	2
Morocco	10
Nigeria	7
Norway	14
Pakistan	16
Panama	2
Peru	25
Portugal	18
Saudi Arabia	10
South Africa	10
Switzerland	16
Syria	5
Trinidad and Tobago	4
Tunisia	5
Turkey	4
United Arab Republic	65
United Kingdom	183
Vatican City	1
Venezuela	29
Total	1,000

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[1] With respect to the interests of Netherlands Antilles and Surinam.

b. Food Aid Convention, 1980[1]

Open for signature at Washington March 11 through April 30, 1980; entered into force July 1, 1980; declaration of provisional application deposited by the United States June 27, 1980; ratification advised by the Senate of the United States of America September 17, 1980; ratification deposited November 11, 1980; proclaimed by the President December 15, 1980

PART I.—OBJECTIVE AND DEFINITIONS

ARTICLE I.—OBJECTIVE

The objective of this Convention is to secure, through a joint effort by the international community, the achievement in physical terms of the World Food Conference target of at least 10 million tons of food aid annually to developing countries in the form of wheat and other grains suitable for human consumption, and as determined by the provisions of this Convention.

ARTICLE II.—DEFINITIONS

(1) For the purposes of this Convention:

(*a*) "c.i.f." means cost, insurance and freight;

(*b*) "Committee" means the Food Aid Committee referred to in Article V;

(*c*) "Executive Secretary" means the Executive Secretary of the International Wheat Council;

(*d*) "f.o.b." means free on board;

(*e*) "grain" or "grains", unless otherwise stated, means wheat, barley, maize, oats, rye, sorghum and rice, or products derived therefrom, including products of secondary processing, as defined in the Rules of Procedure, subject to the provisions of paragraph (1) of Article III;

(*f*) "member" means a Party to this Convention;

(*g*) "Secretariat" means the secretariat of the International Wheat Council;

(*h*) "ton" means 1,000 kilogrammes;

(*i*) "year" means the period from 1 July to 30 June, unless otherwise stated.

(2) Any reference in this Convention to a "Government" or "Governments" shall be construed as including a reference to the European Economic Community (hereinafter referred to as the EEC). Accordingly, any reference in this Convention to "signature" or to the "deposit of instruments of ratification, acceptance or approval" or "an instrument of accession" or to a "declaration of provisional application" by a Government shall, in the case of the EEC, be construed as including signature or declaration of provisional applica-

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[1] TIAS 9878. For a list of states which are parties to the Convention, see Department of State publication, *Treaties in Force.*

tion on behalf of the EEC by its competent authority, and the deposit of the instrument required by the institutional procedures of the EEC to be deposited for the conclusion of an international agreement.

Part II—Main Provisions

ARTICLE III.—INTERNATIONAL FOOD AID

(1) The members of this Convention agree to contribute as food aid to the developing countries grains, as defined in Article II paragraph (1)(e), suitable for human consumption and of an acceptable type and quality or the cash equivalent thereof, in the minimum annual amounts specified in paragraph (3) below.

(2) To the maximum extent possible, contributions shall be made by members and needs estimated by recipient countries on a forward planning basis, so that recipient countries may be able to take account, in their development programmes, of the likely flow of food aid they will receive during each year of this Convention. Furthermore, members should, to the extent possible, indicate the amount of their contributions to be made in the form of gifts or grants:

(3) The minimum annual contribution of each member towards the achievement of the objective of Article I is as follows:

Member:	*Tons*
Argentina	35,000
Australia	400,000
Austria	20,000
Canada	600,000
European Economic Community and its member States	1,650,000
Finland	20,000
Japan	300,000
Norway	30,000
Sweden	40,000
Switzerland	27,000
United States of America	4,470,000

(4) For the purposes of the operation of this Convention, any member which has acceded to this Convention pursuant to paragraph (2) of Article XVI shall be deemed to be listed in paragraph (3) of this Article together with its minimum contribution as determined under the relevant provisions of Article XVI.

(5) In the case of a member making the whole or part of its contribution in the form of cash, the quantity determined for that member, or that portion of that quantity not contributed in grain, shall be evaluated at prevailing market prices for wheat. For the purposes of this paragraph, the Committee shall annually determine the prevailing market price for the following year on the basis of the average monthly price of wheat for the preceding calendar year. The Committee shall establish a Rule of Procedure for the determination of the average monthly price of wheat. In determining the prevailing market price, the Committee shall pay due consideration to any significant increase or decrease in the annual average price.

(6) The Committee shall establish Rules of Procedure for the purposes of evaluating a member's contribution, committed or shipped, in grain other than wheat, taking into account, where appropriate,

the grain content of products and the commercial value of the grain relative to wheat.

(7) Food Aid under this Convention may be supplied on any of the following terms:

(*a*) gifts of grain or gifts of cash to be used to purchase grain for the recipient country;

(*b*) sales for the currency of the recipient country which is not transferable and is not convertible into currency or goods and services for use by the donor members;[2]

(*c*) sales on credit, with payment to be made in reasonable annual amounts over periods of 20 years or more and with interest at rates which are below commercial rates prevailing in world markets;[3]

on the understanding that such aid shall be supplied to the maximum extent possible by way of gifts, especially in the case of least developed countries, low *per capita* income countries and other developing countries in serious economic difficulties.

(8) Grain purchases under paragraph (7)(a) of this Article shall be made from members of the Food Aid Convention, 1980 and the Wheat Trade Convention in force, with preference accorded to developing members of both Conventions, with a view to facilitating exports of, or processing by, developing members of both Conventions. In making purchases it shall be the general aim that the major part of such purchases shall come from developing countries, with priority being given to developing members of the Food Aid Convention. These provisions shall not therefore exclude the purchase of grain from a developing country, not a member of these Conventions. In all purchases under this paragraph, special regard shall be given to the quality, the c.i.f. price advantages and the possibilities of speedy delivery to the recipient country, and the specific requirements of the recipient countries themselves. Cash contributions shall not normally be used in any year to purchase a grain from a country which is the same type of grain as that country has received as bilateral or multilateral food aid during the same year, or during the previous year if the grain so provided is still being used.

(9) Aid transactions under paragraphs (7) and (8) of this Article shall be carried out in a way consistent with the concerns expressed in the FAO Principles of Surplus Disposal and Guiding Lines.

(10) Contributions in the form of grains shall be placed in a f.o.b. forward position by members.

(11) If transport costs beyond the f.o.b. position are borne by donors, these shall be regarded as cash contributions under the Convention over and above the minimum annual amounts specified in paragraph (3) of this Article.

(12) Members may, in respect of their contributions under this Convention, specify a recipient country or countries.

(13) Members may make their contributions through an international organization or bilaterally. However, members shall give full

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[2] Under exceptional circumstances an exemption of not more than 10 percent may be granted.

[3] The credit sales agreement may provide for payment of up to 15 percent of principal upon delivery of the grain.

consideration to the advantages of directing a greater proportion of food aid through multilateral channels, in particular the World Food Programme, and shall otherwise act in accordance with the Guidelines and Criteria for Food, approved by the Committee on Food Aid Policies and Programmes of the World Food Programme.

(14) In the case of the inability of a member to fulfill its obligations under this Convention in any one year, such member shall increase its commitments or shipments, as appropriate, in the following year by the residual amount remaining from the preceding year.

ARTICLE IV.—SPECIAL PROVISION FOR EMERGENCY NEEDS

If in any year there is a substantial food grain production shortfall in the low income developing countries as a whole, the Chairman of the Committee, after considering information received from the Executive Secretary, shall call a session of the Committee to consider the seriousness of the production shortfall. The Committee may recommend that members should respond to the situation by increasing the amount of food aid available.

ARTICLE V.—FOOD AID COMMITTEE

There shall be established a Food Aid Committee whose membership shall consist of all parties to this Convention. The Committee shall appoint a Chairman and a Vice-Chairman.

ARTICLE VI.—POWERS AND FUNCTIONS OF THE COMMITTEE

(1) The Committee shall:

(*a*) receive from members, and members shall provide, regular reports on the amount, content, channelling and terms of their contributions under this Convention;

(*b*) keep under review the purchase of grains financed by cash contributions with particular reference to the obligation in paragraph (8) of Article III concerning purchases of grain from developing countries;

(*c*) examine the way in which the obligations undertaken under this Convention have been fulfilled; and

(*d*) exchange information on a regular basis on the functioning of the food aid arrangements under this Convention, in particular, where information is available, on its effects on food production in receipient countries.

The Committee shall report as necessary.

(2) For the purposes of Article IV and sub-paragraphs 1(c) and 1(d) of this Article the Committee may receive information from recipient countries and may consult with them.

(3) The Committee shall establish such rules of procedure as are necessary to carry out the provisions of this Convention.

(4) In addition to the powers and functions specified in this Article, the Committee shall have such other powers and perform such other functions as are necessary to carry out the provisions of this Convention.

ARTICLE VII.—SEAT, SESSIONS AND QUORUM

(1) The seat of the Committee shall be London, unless the Committee decides otherwise.

(2) The Committee shall meet at least twice a year in conjunction with the statutory sessions of the International Wheat Council. The Committee shall meet also at such other times as the Chairman shall decide; or at the request of three members; or as otherwise required by this Convention.

(3) The presence of delegates representing two-thirds of the membership of the Committee shall be necessary to constitute a quorum at any session of the Committee.

ARTICLE VIII.—DECISIONS

The decisions of the Committee shall be reached by consensus.

ARTICLE IX.—ADMISSION OF OBSERVERS

The Committee may, when appropriate, invite representatives of the secretariats of other international organizations, whose membership is limited to governments that are members of the United Nations, or its specialized agencies, to attend its sessions as observers.

ARTICLE X.—ADMINISTRATIVE OF OBSERVERS

The Committee shall use the services of the Secretariat for the performance of such administrative duties as the Committee may request, including the processing and distribution of documentation and reports.

ARTICLE XI.—DEFAULTS AND DISPUTES

In the case of a dispute concerning the interpretation or application of this Convention, or of a default in obligations under this Convention, the Committee shall meet and take appropriate action.

PART III—FINAL PROVISIONS

ARTICLE XII.—SIGNATURE

This Convention shall be open for signature in Washington from 11 March 1980 until and including 30 April 1980 by the Governments referred to in paragraph (3) of Article III.

ARTICLE XIII.—DEPOSITARY

The Government of the United States of America shall be the depositary of this Convention.

ARTICLE XIV.—RATIFICATION, ACCEPTANCE OR APPROVAL

This Convention shall be subject to ratification, acceptance or approval by each signatory Government in accordance with its constitutional procedures. Instruments of ratification, acceptance or approval shall be deposited with the depositary not later than 30 June 1980, except that the Committee under the Food Aid Convention, 1971, as extended, or the Committee under this Convention may grant one or more extensions of time to any signatory Government that has not deposited its instrument of ratification, acceptance or approval by that date.

ARTICLE XV.—PROVISIONAL APPLICATION

Any signatory Government may deposit with the depositary a declaration of provisional application of this Convention. Any such Government shall provisionally apply this Convention and be provisionally regarded as a party thereto.

ARTICLE XVI.—ACCESSION

(1) This Convention shall be open for accession by any Government referred to in paragraph (3) of Article III that has not signed this Convention. Instruments of accession shall be deposited with the depositary not later than 30 June 1980, except that the Committee under the Food Aid Convention may grant one or more extensions of time to any Government that has not deposited its instrument of accession by that date.

(2) Once this Convention has entered into force in accordance with Article XVII of this Convention, it shall be open for accession by any Government other than those referred to in paragraph (3) of Article III, upon such conditions as the Committee considers appropriate. Instruments of accession shall be deposited with the depositary.

(3) Any Government acceding to this Convention under paragraph (1) or paragraph (2) of this Article may deposit with the depositary a declaration of provisional application of this Convention pending the deposit of its instrument of accession. Any such Government shall provisionally apply this Convention and be provisionally regarded as a party thereto.

ARTICLE XVII.—ENTRY INTO FORCE

(1) This Convention shall enter into force on 1 July 1980, if by 30 June 1980 the Governments referred to in paragraph (3) of Article III have deposited instruments of ratification, acceptance, approval or accession, or declarations of provisional application, and provided that the 1979 Protocol for the fifth extension of the Wheat Trade Convention, 1971, or a new Wheat Trade Convention replacing it, is in force.

(2) If this Convention does not enter into force in accordance with paragraph (1) of this Article, the Governments which have deposited instruments of ratification, acceptance, approval or accession, or declarations of provisional application, may decide by unanimous consent that it shall enter into force among themselves provided that the 1979 Protocol for the fifth extension of the Wheat Trade Convention, 1971, or a new Wheat Trade Convention replacing it, is in force, or may take whatever other action they consider the situation requires.

ARTICLE XVIII.—DURATION AND EXTENSION

(1) This Convention shall remain in force until and including 30 June 1981, provided that the 1979 Protocol for the fifth extension of the Wheat Trade Convention, 1971, or a new Wheat Trade Convention replacing it, remains in force until and including that date.

(2) If the Wheat Trade Convention, 1971 is further extended, or if a new Wheat Trade Convention replacing it enters into force, the Committee may extend this Convention for the period of extension of the Wheat Trade Convention, 1971, or for the duration of the new Wheat Trade Convention replacing it. At the time of such extension of this Convention, a member which does not wish to participate in this Convention, as extended, may withdraw therefrom by giving written notice of withdrawal to the depositary. Such member shall inform the Committee accordingly, but shall not be released from any obligations under this Convention which have not been discharged.

ARTICLE XIX.—RELATIONSHIP OF THIS CONVENTION TO THE INTERNATIONAL WHEAT AGREEMENT, 1971, AS EXTENDED

This Convention shall replace the Food Aid Convention, 1971, as extended and shall be one of the constituent instruments of the International Wheat Agreement, 1971, as extended.

ARTICLE XX.—AUTHENTIC TEXTS

The texts of this Convention in the English, French, Russian and Spanish languages shall all be equally authentic. The originals shall be deposited in the archives of the depositary, which shall transmit certified copies thereof to each signatory and acceding Government.

IN WITNESS WHEREOF the undersigned, having been duly authorized to this effect by their respective Governments or authorities, have signed this Convention on the dates appearing opposite their signatures.

I certify that the foregoing is the authentic English text of the Food Aid Convention, 1980.

c. 1983 Protocols for the Further Extension of the Wheat Trade Convention, 1971 and the Food Aid Convention, 1980, Constituting the International Wheat Agreement 1971 [1]

Open for signature at Washington April 4 through May 10, 1983; ratification advised by the Senate of the United States October 22, 1985; instrument of ratification signed by the President December 3, 1985; instrument of ratification deposited December 3, 1985; entered into force for the United States December 3, 1985

PREAMBLE

The Conference to establish the texts of the 1983 Protocols for the further extension of the Wheat Trade Convention, 1971 and the Food Aid Convention, 1980, constituting the International Wheat Agreement, 1971.

Considering that the International Wheat Agreement was revised, renewed or extended on several occasions since 1949,

Considering that the International Wheat Agreement, 1971, consisting of two separate legal instruments—the Wheat Trade Convention, 1971 and the Food Aid Convention, 1980, which were extended by Protocol in 1981—will expire on 30 June 1983.

Has established the texts of the 1983 Protocols for the further extension of the Wheat Trade Convention, 1971 and the Food Aid Convention, 1980.

1. 1983 PROTOCOL FOR THE FURTHER EXTENSION OF THE WHEAT TRADE CONVENTION, 1971

The Governments party to this Protocol,

Considering that the Wheat Trade Convention, 1971 (hereinafter referred to as "the Convention") of the International Wheat Agreement, 1971, which was further extended by Protocol in 1981, expires on 30 June 1983.

Have agreed as follows:

ARTICLE 1

Extension, expiry and termination of the Convention

Subject to the provisions of Article 2 of this Protocol, the Convention shall continue in force between this parties to the Protocol until 30 June 1986 provided that, if a new international agreement covering wheat enters into force before 30 June 1986, this Protocol shall remain in force only until the date of entry into force of the new agreement.

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[1] Treaty Doc. 98-5, 98th Congress, 1st Session. For a list of States which are parties to the Convention, see Department of State Publication, Treaties in Force.

ARTICLE 2

Inoperative provisions of the Convention

The following provisions of the Convention shall be deemed to be inoperative with effect from 1 July 1983:

(a) paragraph (4) of Article 19;
(b) Articles 22 to 26 inclusive;
(c) paragraph (1) of Article 27;
(d) Articles 29 to 31 inclusive.

ARTICLE 3

Definition

Any reference in this Protocol to a "Government" or "Governments" shall be construed as including a reference to the European Economic Community (hereinafter referred to as "the Community"). Accordingly, any reference in this Protocol to "signature" or to the "deposit of instruments of ratification, acceptance or approval" or "an instrument of accession" or "a declaration of provisional application" by a Government shall, in the case of the Community, be construed as including signature or declaration of provisional application on behalf of the Community by its competent authority and the deposit of the instrument required by the institutional procedures of the Community to be deposited for the conclusion of an international agreement.

ARTICLE 4

Finance

The initial contribution of any exporting or importing member acceding to this Protocol under paragraph (1)(b) of Article 7 thereof, shall be assessed by the Council on the basis of the votes to be distributed to it and the period remaining in the current crop year, but the assessments made upon exporting and importing members for the current crop year shall not be altered.

ARTICLE 5

Signature

This Protocol shall be open for signature in Washington from 4 April 1983 until and including 10 May 1983 by Governments of countries party to the Convention as further extended by the 1981 Protocol, or which are provisionally regarded as party to the Convention as further extended by the 1981 Protocol, on 1 December 1982, or which are members of the United Nations, of its specialized agencies or of the International Atomic Energy Agency, and are listed in Annex A or Annex B to the Convention.

ARTICLE 6

Ratification, acceptance or approval

This Protocol shall be subject to ratification, acceptance or approval by each signatory Government in accordance with its respective constitutional procedures. Instruments of ratification, acceptance or approval shall be deposited with the Government of the United States of America not later than 30 June 1983, except that the Council may grant one or more extensions of time to any signatory Government that has not deposited its instrument of ratification, acceptance or approval by that date.

ARTICLE 7

Accession

(1) This Protocol shall be open for accession

(a) until 30 June 1983 by the Government of any member listed in Annex A or B to the Convention as of that date, except that the Council may grant one or more extensions of time to any Government that has not deposited its instrument by that date, and

(b) after 30 June 1983 by the Government of any member of the United Nations, of its specialized agencies or of the International Atomic Energy Agency, upon such conditions as the Council considers appropriate by not less than two-thirds of the votes cast by exporting members and two thirds of the votes cast by importing members.

(2) Accession shall be effected by the deposit of an instrument of accession with the Government of the United States of America.

(3) Where, for the purposes of the operations of the Convention and this Protocol, reference is made to members listed in Annex A or B to the Convention, any member of the Government of which has acceded to the Convention on conditions prescribed by the Council, or to this Protocol in accordance with paragraph (1)(b) of this Article, shall be deemed to be listed in the appropriate Annex.

ARTICLE 8

Provisional Application

Any signatory Government may deposit with the Government of the United States of America a declaration of provisional application of this Protocol. Any other Government eligible to sign this Protocol or whose application for accession is approved by the Council may also deposit with the Government of the United States of America a declaration of provisional application. Any Government depositing such a declaration shall provisionally apply this Protocol and be provisionally as a party thereto.

ARTICLE 9

Entry Into Force

(1) This Protocol shall enter into force on 1 July 1983 if, by 30 June 1983, Governments representing exporting members which

held at least 60 per cent of the votes set out in Annex A and representing importing members which held at least 50 per cent of the votes set out in Annex B, or would have held such votes on 30 June 1983 if they had been parties to the Convention on that date, have deposited instruments of ratification, acceptance, approval or accession, or declarations of provisional application, in accordance with Article 6, 7 and 8 of this Protocol.

(2) If this Protocol does not enter into force in accordance with paragraph (1) of this Article, the Governments which have deposited instruments of ratification, acceptance, approval or accession, or declarations of provisional application, may decide by mutual consent that it shall enter into force among those Governments that have deposited instruments of ratification, acceptance, approval or accession or declarations of provisional application.

ARTICLE 10

Notification by Depositary Government

The Government of the United States of America as the depositary Government shall notify all signatory and acceding Governments of each signature, ratification, acceptance, approval, provisional application of, and accession to, this Protocol as well as of each notification and notice received under Article 27 of the Convention and each declaration and notification received under Article 28 of the Convention.

ARTICLE 11

Certified Copy of the Protocol

As soon as possible after the entry into force of this Protocol, the depositary Government shall send a certified copy of this Protocol in the English, French, Russian and Spanish languages to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations. Any amendments to the Protocol shall likewise be communicated.

ARTICLE 12

Relationship of Preamble to Protocol

This Protocol includes the Preamble to the 1983 Protocols for the further extension of the Wheat Trade Convention, 1971 and the Food Aid Convention, 1980, constituting the International Wheat Agreement, 1971.

IN WITNESS WHEREOF the undersigned having been duly authorized to this effect by their respective Governments or authorities have signed this Protocol on the dates appearing opposite their signatures.

The texts of this Protocol in the English, French, Russian and Spanish languages shall be equally authentic. The originals shall be deposited with the Government of the United States of America, which shall transmit certified copies thereof to each signatory and acceding party and to the Executive Secretary of the Council.

2. 1983 PROTOCOL FOR THE FURTHER EXTENSION OF THE FOOD AID CONVENTION, 1980

The parties to this Protocol,

Considering that the Food Aid Convention, 1980 (hereinafter referred to as "the Convention") of the International Wheat Agreement, 1971, which was extended by Protocol in 1981, expires on 30 June 1983,

Have agreed as follows:

ARTICLE I

Extension, expiry and termination of the Convention

Subject to the provisions of Article II of this Protocol, the Convention shall continue in force between the parties to this Protocol until 30 June 1986 provided that, if a new agreement covering food aid enters into force before 30 June 1986, this Protocol shall remain in force only until the date of entry into force of the new agreement.

ARTICLE II

Inoperative provisions of the Convention

The following provisions of the Convention shall be deemed to be inoperative with effect from 1 July 1983:

(a) Article XII
(b) Article XVII
(c) paragraph (1) of Article XVIII.

ARTICLE III

International food aid

For the purposes of the operation of the Convention as extended by this Protocol, any member which has acceded to this Protocol pursuant to paragraph (2) of Article VIII of this Protocol shall be deemed to be listed in paragraph (3) of Article III of the Convention, together with its minimum contribution as determined under the relevant provisions of Article VIII of this Protocol.

ARTICLE IV

Signature

This Protocol shall be open for signature in Washington from 4 April 1983 until and including 10 May 1983 by the Governments referred to in paragraph (3) of Article III of the Convention.

ARTICLE V

Depositary

The Government of the United States of America shall be the depositary of this Protocol.

ARTICLE VI

Ratification, acceptance or approval

This Protocol shall be subject to ratification, acceptance or approval by each signatory Government in accordance with its constitutional procedures. Instruments of ratification, acceptance or approval shall be deposited with the depositary not later than 30 June 1983, except that the Food Aid Committee under the convention (hereinafter referred to as "the Committee") may grant one or more extensions of time to any signatory Government that has not deposited its instrument of ratification, acceptance or approval by that date.

ARTICLE VII

Provisional application

Any signatory Government may deposit with the depositary a declaration of provisional application of this Protocol. Any such Government shall provisionally apply this Protocol and be provisionally regarded as a party thereto.

ARTICLE VIII

Accession

(1) This Protocol shall be open for accession by any Government referred to in paragraph (3) of Article III of the Convention that has not signed this Protocol. Instruments of accession shall be deposited with the depositary not later than 30 June 1983, except that the Committee may grant one or more extensions of time to any Government that has not deposited its instrument of accession by that date.

(2) Once this Protocol has entered into force in accordance with Article IX of this Protocol, it shall be open for accession by any Government other than those referred to in paragraph (3) of Article III of the Convention, upon such conditions as the Committee considers appropriate. Instruments of accession shall be deposited with the depositary.

(3) Any Government acceding to this Protocol under paragraph (1) or paragraph (2) of this Article may deposit with the depositary a declaration of provisional application of this Protocol pending the deposit of its instrument of accession. Any such Government shall provisionally apply this Protocol and be provisionally regarded as a party thereto.

ARTICLE IX

Entry into force

(1) This Protocol shall enter into force on 1 July 1983, if by 30 June 1983 the Governments referred to in paragraph (3) of Article III of the Convention have deposited instruments of ratification, acceptance, approval or accession, or declarations of provisional application, and provided that the 1983 Protocol for the further ex-

tension of the Wheat Trade Convention, 1971, or a new Wheat Trade Convention replacing it, is in force.

(2) If this Protocol does not enter into force in accordance with paragraph (1) of this Article, the Governments which have deposited instruments of ratification, acceptance, approval or accession, or declarations of provisional application, may decide by unanimous consent that it shall enter into force among themselves provided that the 1983 Protocol for the further extension of the Wheat Trade Convention, 1971, or a new Wheat Trade Convention replacing it, is in force, or may take whatever other action they consider the situation requires.

ARTICLE X

Duration

This Protocol shall remain in force until and including 30 June 1986, provided that the 1983 Protocol for the further extension of the Wheat Trade Convention, 1971, or a new Wheat Trade Convention replacing it, remains in force until and including that date.

ARTICLE XI

Authentic texts

The texts of this Protocol in the English, French, Russian and Spanish languages shall all be equally authentic. The originals shall be deposited in the archives of the depositary, which shall transmit certified copies thereof to each signatory and acceding Government.

ARTICLE XII

Relationship of Preamble to Protocol

This Protocol includes the Preamble to the 1983 Protocols for the further extension of the Wheat Trade Convention, 1971, and the Food Aid Convention, 1980, constituting the International Wheat Agreement, 1971.

IN WITNESS WHEREOF the undersigned, having been duly authorized to this effect by their respective Governments or authorities, have signed this Protocol on the dates appearing opposite their signatures.

I CERTIFY THAT the foregoing is a true copy of the 1983 Protocols for the Further Extension of the Wheat Trade Convention, 1971 and the Food Aid Convention, 1980, established, together with a common Preamble, by a Conference of Governments convened at London on December 1, 1982, to be opened for signature at Washington on April 4, 1983, in the English, French, Russian and Spanish languages, the original of which is deposited in the archives of the Government of the United States of America.

IN TESTIMONY WHEREOF, I, KENNETH W. DAM, Acting Secretary of State of the United States of America, have hereunto caused the seal of the Department of State to be affixed and my name subscribed by the Authentication Officer of the said Department, at the city of Washington, in the District of Columbia, this first day of February, 1983.

[SEAL]

KENNETH W. DAM,
Acting Secretary of State.
By ANNIE R. MADDUX,
Authentication Officer, Department of State.

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H. FINANCIAL INSTITUTIONS

CONTENTS

Page

1. International Monetary Fund 363
    - a. Articles of Agreement (amended) 366
    - b. Text of the Decision of the Executive Directors of the International Monetary Fund, January 5, 1962 422
    - c. Exchange of Correspondence Between M. Wilfrid Baumgartner, Minister of Finance, France, and Douglas Dillon, Secretary of the Treasury, United States 430
2. International Bank for Reconstruction and Development (Amended Articles of Agreement) 433
3. International Finance Corporation (Amended Articles of Agreement) 458
4. Inter-American Development Bank (Amended Agreement Establishing the Bank) 475
5. International Development Association (Articles of Agreement) 513
6. Inter-American Investment Corporation (Articles of Agreement) 533
7. Asian Development Bank (Articles of Agreement) 550
8. African Development Fund (Agreement Establishing the Fund) 584
9. Settlement of Investment Disputes 611
    - a. Convention on the Settlement of Investment Disputes Between States and Nationals of other States 611
    - b. Resolution 65-14, Approval for Submission of Settlement of Investment Disputes 630

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1. International Monetary Fund

a. Articles of Agreement (amended)

CONTENTS

Page
Introductory Article 366
I. Purposes 366
II. Membership 367
  1. Original members 367
  2. Other members 367
III. Quotas and Subscriptions 367
  1. Quotas 367
  2. Adjustment of quotas 367
  3. Payments when quotas are changed 368
  4. Substitution of securities for currency 368
IV. Obligations Regarding Exchange Arrangements 368
  1. General obligations of members 369
  2. General exchange arrangements 369
  3. Surveillance over exchange arrangements 369
  4. Par values 370
  5. Separate currencies within a member's territories 370
V. Operations and Transactions of the Fund 370
  1. Agencies dealing with the Fund 370
  2. Limitation on the Fund's operations and transactions 371
  3. Conditions governing use of the Fund's general resources 371
  4. Waiver of conditions 372
  5. Ineligibility to use the Fund's general resources 372
  6. Other purchases and sales of special drawing rights by the Fund 373
  7. Repurchase by a member of its currency held by the Fund 373
  8. Charges 375
  9. Remuneration 375
  10. Computations 376
  11. Maintenance of value 376
  12. Other operations and transactions 377
VI. Capital Transfers 379
  1. Use of the Fund's general resources for capital transfers 379
  2. Special provisions for capital transfers 379
  3. Controls of capital transfers 379
VII. Replenishment and Scarce Currencies 379
  1. Measures to replenish the Fund's holdings of scarce currencies 379
  2. General scarcity of currency 380
  3. Scarcity of the Fund's holdings 380
  4. Administration of restrictions 380
  5. Effect of other international agreements on restrictions 381
VIII. General Obligations of Members 381
  1. Introduction 381
  2. Avoidance of restrictions on current payments 381
  3. Avoidance of discriminatory currency practices 381
  4. Convertibility of foreign held balances 381
  5. Furnishing of information 382
  6. Consultation between members regarding existing international agreements 383
  7. Obligation to collaborate regarding policies on reserve assets 383

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Page
IX. Status, Immunities and Privileges 383
1. Purposes of Article 383
2. Status of the Fund 383
3. Immunity from judicial process 383
4. Immunity from other action 383
5. Immunity of archives 384
6. Freedom of assets from restrictions 384
7. Privilege for communications 384
8. Immunities and privileges of officers and employees 384
9. Immunities from taxation 384
10. Application of Article 385
X. Relations with Other International Organizations 385
XI. Relations with Non-Member Countries 385
1. Undertakings regarding relations with non-member countries 385
2. Restrictions on transactions with non-member countries 385
XII. Organization and Management 385
1. Structure of the Fund 385
2. Board of Governors 386
3. Executive Board 386
4. Managing Director and staff 388
5. Voting 388
6. Reserves and distribution of net income and investment 389
7. Publication of reports 390
8. Communication of views to members 390
XIII. Offices and Depositories 391
[illegible] ocation of offices 391
[illegible] positories 391
[illegible] arantee of the Fund's assets 391
XI[illegible] nal Arrangements 391
[illegible] tification to the Fund 391
[illegible] xchange restrictions 391
[illegible] Action of the Fund relating to restrictions 392
XV. Special Drawing Rights 392
1. Authority to allocate special drawing rights 392
2. Valuation of the special drawing right 392
XVI. General Department and Special Drawing Rights Department 392
1. Separation of operations and transactions 392
2. Separation of assets and property 392
3. Recording and information 393
XVII. Participants and Other Holders of Special Drawing Rights 393
1. Participants 393
2. Fund as a holder 393
3. Other holders 393
XVIII. Allocation and Cancellation of Special Drawing Rights 394
1. Principles and considerations governing allocation and cancellation 394
2. Allocation and cancellation 394
3. Unexpected major developments 395
4. Decisions on allocations and cancellations 395
XIX. Operations and Transactions in Special Drawing Rights 396
1. Use of special drawing rights 396
2. Operations and transactions between participants 396
3. Requirement of need 396
4. Obligation to provide currency 397
5. Designation of participants to provide currency 397
6. Reconstitution 398
7. Exchange rates 398
XX. Special Drawing Rights Department Interest and Charges 398
1. Interest 398
2. Charges 398
3. Rate of interest and charges 399
4. Assessments 399
5. Payment of interest, charges, and assessments 399
XXI. Administration of the General Department and the Special Drawing Rights Account 399
XXII. General Obligations of Participants 400

Page
XXIII. Suspension of Operations and Transactions in Special Drawing Rights . 401
1. Emergency provisions 401
2. Failure to fulfill obligations 401
XXIV. Termination of Participation 401
1. Right to terminate participation 401
2. Settlement on termination 402
3. Interest and charges 402
4. Settlement of obligation to the Fund 402
5. Settlement of obligation to a terminating participant 403
6. General Resources Account transactions 403
XXV. Liquidation of the Special Drawing Rights Department 403
XXVI. Withdrawal from Membership 404
1. Right of members to withdraw 404
2. Compulsory withdrawal 404
3. Settlement of accounts with members withdrawing 404
XXVII. Emergency Provisions 404
1. Temporary suspension 404
2. Liquidation of the Fund 405
XXVIII. Amendments 405
XXIX. Interpretation 406
XXX. Explanation of Terms 406
XXXI. Final Provisions 407
1. Entry into force 407
2. Signature 408

SCHEDULES

A. Quotas 409
B. Transitional Provisions with Respect to Repurchase, Payment of Additional Subscriptions, Gold, and Certain Operational Matters 409
C. Par Values 410
D. Council 412
E. Election of Executive Directors 413
F. Designation 414
G. Reconstitution 414
H. Termination of Participation 415
I. Administration of Liquidation of the Special Drawing Rights Department 416
J. Settlement of Accounts with Members Withdrawing 418
K. Administration of Liquidation 419

a. Articles of Agreement of the International Monetary Fund[1] (amended)

Articles of agreement between the United States of America and other powers respecting the International Monetary Fund. Formulated at the United Nations Monetary and Financial Conference, Bretton Woods, New Hampshire, July 1 to July 22, 1944; signed at Washington December 27, 1945; instrument of acceptance by the United States of America deposited December 20, 1945; effective December 27, 1945. Amended July 28, 1969 and April 1, 1978

The Governments on whose behalf the present Agreement is signed agree as follows:

INTRODUCTORY ARTICLE

(i) The International Monetary Fund is established and shall operate in accordance with the provisions of this Agreement as originally adopted and subsequently amended.

(ii) To enable the Fund to conduct its operations and transactions, the Fund shall maintain a General Department and a Special Drawing Rights Department. Membership in the Fund shall give the right to participation in the Special Drawing Rights Department.

(iii) Operations and transactions authorized by this Agreement shall be conducted through the General Department, consisting in accordance with the provisions of this Agreement of the General Resources Account, the Special Disbursement Account, and the Investment Account; except that operations and transactions involving special drawing rights shall be conducted through the Special Drawing Rights Department.

ARTICLE I—PURPOSES

The purposes of the International Monetary Fund are:

(i) To promote international monetary cooperation through a permanent institution which provides the machinery for consultation and collaboration on international monetary problems.

(ii) To facilitate the expansion and balanced growth of international trade, and to contribute thereby to the promotion and maintenance of high levels of employment and real income and to the development of the productive resources of all members as primary objectives of economic policy.

(iii) To promote exchange stability, to maintain orderly exchange arrangements among members, and to avoid competitive exchange depreciation.

(iv) To assist in the establishment of a multilateral system of payments in respect of current transactions between members and in the elimination of foreign exchange restrictions which hamper the growth of world trade.

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[1] 60 Stat. 1401; TIAS 1501. For a list of states which are parties to the Fund, see Department of State publication, *Treaties in Force*.

(v) To give confidence to members by making the general resources of the Fund temporarily available to them under adequate safeguards, thus providing them with opportunity to correct maladjustments in their balance of payments without resorting to measures destructive of national or international prosperity.

(vi) In accordance with the above, to shorten the duration and lessen the degree of disequilibrium in the international balances of payments of members.

The Fund shall be guided in all its policies and decisions by the purposes set forth in this Article.

Article II—Membership

SECTION 1. ORIGINAL MEMBERS

The original members of the Fund shall be those of the countries represented at the United Nations Monetary and Financial Conference whose governments accept membership before December 31, 1945.

SECTION 2. OTHER MEMBERS

Membership shall be open to other countries at such times and in accordance with such terms as may be prescribed by the Board of Governors. These terms, including the terms for subscriptions, shall be based on principles consistent with those applied to other countries that are already members.

Article III—Quotas and Subscriptions

SECTION 1. QUOTAS AND PAYMENT OF SUBSCRIPTIONS

Each member shall be assigned a quota expressed in special drawing rights. The quotas of the members represented at the United Nations Monetary and Financial Conference which accept membership before December 31, 1945 shall be those set forth in Schedule A. The quotas of other members shall be determined by the Board of Governors. The subscription of each member shall be equal to its quota and shall be paid in full to the Fund at the appropriate depository.

SECTION 2. ADJUSTMENT OF QUOTAS

(a) The Board of Governors shall at intervals of not more than five years conduct a general review, and if it deems it appropriate propose an adjustment, of the quotas of the members. It may also, if it thinks fit, consider at any other time the adjustment of any particular quota at the request of the member concerned.

(b) The Fund may at any time propose an increase in the quotas of those members of the Fund that were members on August 31, 1975 in proportion to their quotas on that date in a cumulative amount not in excess of amounts transferred under Article V, Section 12(f) (i) and (j) from the Special Disbursement Account to the General Resources Account.

(c) An eighty-five percent majority of the total voting power shall be required for any change in quotas.

(d) The quota of a member shall not be changed until the member has consented and until payment has been made unless payment is deemed to have been made in accordance with Section 3(b) of this Article.

SECTION 3. PAYMENTS WHEN QUOTAS ARE CHANGED

(a) Each member which consents to an increase in its quota under Section 2(a) of this Article shall, within a period determined by the Fund, pay to the Fund twenty-five percent of the increase in special drawing rights, but the Board of Governors may prescribe that this payment may be made, on the same basis for all members, in whole or in part in the currencies of other members specified, with their concurrence, by the Fund, or in the member's own currency. A nonparticipant shall pay in the currencies of other members specified by the Fund, with their concurrence, a proportion of the increase corresponding to the proportion to be paid in special drawing rights by participants. The balance of the increase shall be paid by the member in its own currency. The Fund's holdings of a member's currency shall not be increased above the level at which they would be subject to charges under Article V, Section 8(b)(ii), as a result of payments by other members under this provision.

(b) Each member which consents to an increase in its quota under Section 2(b) of this Article shall be deemed to have paid to the Fund an amount of subscription equal to such increase.

(c) If a member consents to a reduction in its quota, the Fund shall, within sixty days, pay to the member an amount equal to the reduction. The payment shall be made in the member's currency and in such amount of special drawing rights or the currencies of other members specified, with their concurrence, by the Fund as is necessary to prevent the reduction of the Fund's holdings of the currency below the new quota, provided that in exceptional circumstances the Fund may reduce its holdings of the currency below the new quota by payment to the member in its own currency.

(d) A seventy percent majority of the total voting power shall be required for any decision under (a) above, except for the determination of a period and the specification of currencies under that provision.

SECTION 4. SUBSTITUTION OF SECURITIES FOR CURRENCY

The Fund shall accept from any member, in place of any part of the member's currency in the General Resources Account which in the judgment of the Fund is not needed for its operations and transactions, notes or similar obligations issued by the member or the depository designated by the member under Article XIII, Section 2, which shall be non-negotiable, non-interest bearing and payable at their face value on demand by crediting the account of the Fund in the designated depository. This Section shall apply not only to currency subscribed by members but also to any currency otherwise due to, or acquired by, the Fund and to be placed in the General Resources Account.

ARTICLE IV—OBLIGATIONS REGARDING EXCHANGE ARRANGEMENTS

SECTION 1. GENERAL OBLIGATIONS OF MEMBERS

Recognizing that the essential purpose of the international monetary system is to provide a framework that facilitates the exchange of goods, services, and capital among countries, and that sustains sound economic growth, and that a principal objective is the continuing development of the orderly underlying conditions that are necessary for financial and economic stability, each member undertakes to collaborate with the Fund and other members to assure orderly exchange arrangements and to promote a stable system of exchange rates. In particular, each member shall:

(i) Endeavor to direct its economic and financial policies toward the objective of fostering orderly economic growth with reasonable price stability, with due regard to its circumstances;

(ii) Seek to promote stability by fostering orderly underlying economic and financial conditions and a monetary system that does not tend to produce erratic disruptions;

(iii) Avoid manipulating exchange rates or the international monetary system in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members; and

(iv) Follow exchange policies compatible with the undertakings under this Section.

SECTION 2. GENERAL EXCHANGE ARRANGEMENTS

(a) Each member shall notify the Fund, within thirty days after the date of the second amendment of this Agreement, of the exchange arrangements it intends to apply in fulfillment of its obligations under Section 1 of this Article, and shall notify the Fund promptly of any changes in its exchange arrangements.

(b) Under an international monetary system of the kind prevailing on January 1, 1976, exchange arrangements may include (i) the maintenance by a member of a value for its currency in terms of the special drawing right or another denominator, other than gold, selected by the member, or (ii) cooperative arrangements by which members maintain the value of their currencies in relation to the value of the currency or currencies of other members, or (iii) other exchange arrangements of a member's choice.

(c) To accord with the development of the international monetary system, the Fund, by an eighty-five percent majority of the total voting power, may make provision for general exchange arrangements without limiting the right of members to have exchange arrangements of their choice consistent with the purposes of the Fund and the obligations under Section 1 of this Article.

SECTION 3. SURVEILLANCE OVER EXCHANGE ARRANGEMENTS

(a) The Fund shall oversee the international monetary system in order to ensure its effective operation, and shall oversee the compliance of each member with its obligations under Section 1 of this Article.

(b) In order to fulfill its functions under (a) above, the Fund shall exercise firm surveillance over the exchange rate policies of members, and shall adopt specific principles for the guidance of all members with respect to those policies. Each member shall provide the Fund with the information necessary for such surveillance, and, when requested by the Fund, shall consult with it on the member's exchange rate policies. The principles adopted by the Fund shall be consistent with cooperative arrangements by which members maintain the value of their currencies in relation to the value of the currency or currencies of other members, as well as with other exchange arrangements of a member's choice consistent with the purposes of the Fund and Section 1 of this Article. These principles shall respect the domestic social and political policies of members, and in applying these principles the Fund shall pay due regard to the circumstances of members.

SECTION 4. PAR VALUES

The Fund may determine, by an eighty-five percent majority of the total voting power, that international economic conditions permit the introduction of a widespread system of exchange arrangements based on stable but adjustable par values. The Fund shall make the determination on the basis of the underlying stability of the world economy, and for this purpose shall take into account price movements and rates of expansion in the economies of members. The determination shall be made in light of the evolution of the international monetary system, with particular reference to sources of liquidity, and, in order to ensure the effective operation of a system of par values, to arrangements under which both members in surplus and members in deficit in their balances of payments take prompt, effective, and symmetrical action to achieve adjustment, as well as to arrangements for intervention and the treatment of imbalances. Upon making such determination, the Fund shall notify members that the provisions of Schedule C apply.

SECTION 5. SEPARATE CURRENCIES WITHIN A MEMBER'S TERRITORIES

(a) Action by a member with respect to its currency under this Article shall be deemed to apply to the separate currencies of all territories in respect of which the member has accepted this Agreement under Article XXXI, Section 2(g) unless the member declares that its action relates either to the metropolitan currency alone, or only to one or more specified separate currencies, or to the metropolitan currency and one or more specified separate currencies.

(b) Action by the Fund under this Article shall be deemed to relate to all currencies of a member referred to in (a) above unless the Fund declares otherwise.

ARTICLE V—OPERATIONS AND TRANSACTIONS OF THE FUND

SECTION 1. AGENCIES DEALING WITH THE FUND

Each member shall deal with the Fund only through its Treasury, central bank, stabilization fund or other similar fiscal agency and the Fund shall deal only with or through the same agencies.

SECTION 2. LIMITATION ON THE FUND'S OPERATIONS AND TRANSACTIONS

(a) Except as otherwise provided in this Agreement, transactions on the account of the Fund shall be limited to transactions for the purpose of supplying a member, on the initiative of such member, with special drawing rights or currencies of other members from the general resources of the Fund, which shall be held in the General Resources Account, in exchange for the currency of the member desiring to make the purchase.

(b) If requested, the Fund may decide to perform financial and technical services, including the administration of resources contributed by members, that are consistent with the purposes of the Fund. Operations involved in the performance of such financial services shall not be on the account of the Fund. Services under this subsection shall not impose any obligation on a member without its consent.

SECTION 3. CONDITIONS GOVERNING USE OF THE FUND'S GENERAL RESOURCES

(a) The Fund shall adopt policies on the use of its general resources, including policies on stand-by or similar arrangements, and may adopt special policies for special balance of payments problems, that will assist members to solve their balance of payments problems in a manner consistent with the provisions of this Agreement and that will establish adequate safeguards for the temporary use of the general resources of the Fund.

(b) A member shall be entitled to purchase the currencies of another member from the Fund in exchange for an equivalent amount of its own currency subject to the following conditions.

(i) The member desiring to purchase the currency represents that it is presently needed for making in that currency payments which are consistent with the provisions of this Agreement;

(ii) The Fund has not given notice under Article VII, Section 3, that its holdings of the currency desired have become scarce;

(iii) The proposed purchase would be a reserve tranche purchase, or would not cause the Fund's holdings of the purchasing member's currency to exceed two hundred percent of its quota;

(iv) The Fund has not previously declared under Section 5 of this Article, Article VI, Section 1, or Article XXVI, Section 2(a), that the member desiring to purchase is ineligible to use the general resources of the Fund.

(c) The Fund shall examine a request for a purchase to determine whether the proposed purchase would be consistent with the provisions of this Agreement and the policies adopted under them, provided that requests for reserve tranche purchases shall not be subject to challenge.

(d) The Fund shall adopt policies and procedures on the selection of currencies to be sold that take into account, in consultation with members, the balance of payments and reserve position of members and development in the exchange markets, as well as the desirability of promoting over time balanced positions in the Fund, provided

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that if a member represents that it is proposing to purchase the currency of another member because the purchasing member wishes to obtain an equivalent amount of its own currency offered by the other member, it shall be entitled to purchase the currency of the other member unless the Fund has given notice under Article VII, Section 3 that its holdings of the currency have become scarce.

(e)(i) Each member shall ensure that balances of its currency purchased from the Fund are balances of a freely usable currency or can be exchanged at the time of purchase for a freely usable currency of its choice at an exchange rate between the two currencies equivalent to the exchange rate between them on the basis of Article XIX, Section 7(a).

(ii) Each member whose currency is purchased from the Fund or is obtained in exchange for currency purchased from the Fund shall collaborate with the Fund and other members to enable such balances of its currency to be exchanged, at the time of purchase, for the freely usable currencies of other members.

(iii) An exchange under (i) above of a currency that is not freely usable shall be made by the member whose currency is purchased unless that member and the purchasing member agree on another procedure.

(iv) A member purchasing from the Fund the freely usable currency of another member and wishing to exchange it at the time of purchase for another freely usable currency shall make the exchange with the other member if requested by that member. The exchange shall be made for a freely usable currency selected by the other member at the rate of exchange referred to in (i) above.

(f) Under policies and procedures which it shall adopt, the Fund may agree to provide a participant making a purchase in accordance with this Section with special drawing rights instead of the currencies of other members.

SECTION 4. WAIVER OF CONDITIONS

The Fund may in its discretion, and on terms which safeguard its interests, waive any of the conditions prescribed in Section 3(b) (iii) and (iv) of this Article, especially in the case of members with a record of avoiding large or continuous use of the Fund's general resources. In making a waiver it shall take into consideration periodic or exceptional requirements of the member requesting the waiver. The Fund shall also take into consideration a member's willingness to pledge as collateral security acceptable assets having a value sufficient in the opinion of the Fund to protect its interests and may require as a condition of waiver the pledge of such collateral security.

SECTION 5. INELIGIBILITY TO USE THE FUND'S GENERAL RESOURCES

Whenever the Fund is of the opinion that any member is using the general resources of the Fund in a manner contrary to the purposes of the Fund, it shall present to the member a report setting forth the views of the Fund and prescribing a suitable time for reply. After presenting such a report to a member, the Fund may limit the use of its general resources by the member. If no reply to the report is received from the member within the prescribed time, or if the reply received is unsatisfactory, the Fund may continue to limit the member's use of the general resources of the fund or may, after giving reasonable notice to the member, declare it ineligible to use the general resources of the Fund.

SECTION 6. OTHER PURCHASES AND SALES OF SPECIAL DRAWING RIGHTS BY THE FUND

(a) The Fund may accept special drawing rights offered by a participant in exchange for an equivalent amount of the currencies of other members.

(b) The Fund may provide a participant, at its request, with special drawing rights for an equivalent amount of the currencies of other members. The Fund's holdings of a member's currency shall not be increased as a result of these transactions above the level at which the holdings would be subject to charges under Section 8(b)(ii) of this Article.

(c) The currencies provided or accepted by the Fund under this Section shall be selected in accordance with policies that take into account the principles of Section 3(d) or 7(i) of this Article. The Fund may enter into transactions under this Section only if a member whose currency is provided or accepted by the Fund concurs in that use of its currency.

SECTION 7. REPURCHASE BY A MEMBER OF ITS CURRENCY HELD BY THE FUND

(a) A member shall be entitled to repurchase at any time the Fund's holdings of its currency that are subject to charges under Section 8(b) of this Article.

(b) A member that has made a purchase under Section 3 of this Article will be expected normally, as its balance of payments and reserve position improves, to repurchase the Fund's holdings of its currency that result from the purchase and are subject to charges under Section 8(b) of this Article. A member shall repurchase these holdings if, in accordance with policies on repurchase that the Fund shall adopt and after consultation with the member, the Fund represents to the member that it should repurchase because of an improvement in its balance of payments and reserve position.

(c) A member that has made a purchase under Section 3 of this Article shall repurchase the Fund's holdings of its currency that result from the purchase and are subject to charges under Section 8(b) of this Article not later than five years after the date on which the purchase was made. The Fund may prescribe that repurchase shall be made by a member in installments during the period beginning three years and ending five years after the date of a purchase. The Fund, by an eighty-five percent majority of the total voting power, may change the periods for repurchase under this subsection, and any period so adopted shall apply to all members.

(d) The Fund, by an eighty-five percent majority of the total voting power, may adopt periods other than those that apply in accordance with (c) above, which shall be the same for all members, for the repurchase of holdings of currency acquired by the Fund pursuant to a special policy on the use of its general resources.

(e) A member shall repurchase, in accordance with policies that the Fund shall adopt by a seventy percent majority of the total voting power, the Fund's holdings of its currency that are not acquired as a result of purchases and are subject to charges under Section 8(b)(ii) of this Article.

(f) A decision prescribing that under a policy on the use of the general resources of the Fund the period for repurchase under (c) or (d) above shall be shorter than the one in effect under the policy shall apply only to holdings acquired by the Fund subsequent to the effective date of the decision.

(g) The Fund, on the request of a member, may postpone the date of discharge of a repurchase obligation, but not beyond the maximum period under (c) or (d) above or under policies adopted by the Fund under (e) above, unless the Fund determines, by a seventy percent majority of the total voting power, that a longer period for repurchase which is consistent with the temporary use of the general resources of the Fund is justified because discharge on the due date would result in exceptional hardship for the member.

(h) The Fund's policies under Section 3(d) of this Article may be supplemented by policies under which the Fund may decide after consultation with a member to sell under Section 3(b) of this Article its holdings of the member's currency that have not been repurchased in accordance with this Section 7, without prejudice to any action that the Fund may be authorized to take under any other provision of this Agreement.

(i) All repurchases under this Section shall be made with special drawing rights or with the currencies of other members specified by the Fund. The Fund shall adopt policies and procedures with regard to the currencies to be used by members in making repurchases that take into account the principles of Section 3(d) of this Article. The Fund's holdings of a member's currency that is used in repurchase shall not be increased by the repurchase above the level at which they would be subject to charges under Section 8(b)(ii) of this Article.

(j)(i) If a member's currency specified by the Fund under (i) above is not a freely usable currency, the member shall ensure that the repurchasing member can obtain it at the time of the repurchase in exchange for a freely usable currency selected by the member whose currency has been specified. An exchange of currency under this provision shall take place at an exchange rate between the two currencies equivalent to the exchange rate between them on the basis of Article XIX, Section 7(a).

(ii) Each member whose currency is specified by the Fund for repurchase shall collaborate with the Fund and other members to enable repurchasing members, at the time of the repurchase, to obtain the specified currency in exchange for the freely usable currencies of other members.

(iii) An exchange under (j)(i) above shall be made with the member whose currency is specified unless that member and the repurchasing member agree on another procedure.

(iv) If a repurchasing member wishes to obtain, at the time of the repurchase, the freely usable currency of another member specified by the Fund under (i) above, it shall, if requested by the other member, obtain the currency from the other member in exchange for a freely usable currency at the rate of exchange referred to in (j)(i) above. The Fund may adopt regulations on the freely usable currency to be provided in an exchange.

SECTION 8. CHARGES

(a)(i) The Fund shall levy a service charge on the purchase by a member of special drawing rights or the currency of another member held in the General Resources Account in exchange for its own currency, provided that the Fund may levy a lower service charge on reverse tranche purchases than on other purchases. The service charge on reserve tranche purchases shall not exceed one-half of one percent.

(ii) The Fund may levy a charge for stand-by or similar arrangements. The Fund may decide that the charge for an arrangement shall be offset against the service charge levied under (i) above on purchases under the arrangement.

(b) The Fund shall levy charges on its average daily balances of a member's currency held in the General Resources Account to the extent that they

(i) have been acquired under a policy that has been the subject of an exclusion under Article XXX(c), or

(ii) exceed the amount of the member's quota after excluding any balances referred to in (i) above.

The rates of charge normally shall rise at intervals during the period in which balances are held.

(c) If a member fails to make a repurchase required under Section 7 of this Article, the Fund, after consultation with the member on the reduction of the Fund's holdings of its currency, may impose such charges as the Fund deems appropriate on its holdings of the member's currency that should have been repurchased.

(d) A seventy percent majority of the total voting power shall be required for the determination of the rates of charge under (a) and (b) above, which shall be uniform for all members, and under (c) above.

(e) A member shall pay all charges in special drawing rights, provided that in exceptional circumstances the Fund may permit a member to pay charges in the currencies of other members specified by the Fund, after consultation with them, or in its own currency. The Fund's holdings of a member's currency shall not be increased as a result of payments by other members under this provision above the level at which they would be subject to charges under (b)(ii) above.

SECTION 9. REMUNERATION

(a) The Fund shall pay remuneration on the amount by which the percentage of quota prescribed under (b) or (c) below exceeds the Fund's average daily balances of a member's currency held in the General Resources Account other than balances acquired under a policy that has been the subject of an exclusion under Article XXX(c). The rate of remuneration, which shall be determined by the Fund by a seventy percent majority of the total voting power, shall be the same for all members and shall be not more than, nor less than four-fifths of, the rate of interest under Article XX, Section 3. In establishing the rate of remuneration, the Fund shall take into account the rates of charge under Article V, Section 8(b).

(b) The percentage of quota applying for the purposes of (a) above shall be:

(i) For each member that became a member before the second amendment of this Agreement, a percentage of quota corresponding to seventy-five percent of its quota on the date of the second amendment of this Agreement, and for each member that became a member after the date of the second amendment of this Agreement, a percentage of quota calculated by dividing the total of the amounts corresponding to the percentages of quota that apply to the other members on the date on which the member became a member by the total of the quotas of the other members on the same date; plus

(ii) The amounts it has paid to the Fund in currency or special drawing rights under Article III, Section 3(a) since the date applicable under (b)(i) above; and minus

(iii) The amounts it has received from the Fund in currency or special drawing rights under Article III, Section 3(c) since the date applicable under (b)(i) above.

(c) The Fund, by a seventy percent majority of the total voting power, may raise the latest percentage of quota applying for the purposes of (a) above to each member to:

(i) A percentage, not in excess of one hundred percent, that shall be determined for each member on the basis of the same criteria for all members, or

(ii) One hundred percent for all members.

(d) Remuneration shall be paid in special drawing rights, provided that either the Fund or the member may decide that the payment to the member shall be made in its own currency.

SECTION 10. COMPUTATIONS

(a) The value of the Fund's assets held in the accounts of the General Department shall be expressed in terms of the special drawing right.

(b) All computations relating to currencies of members for the purpose of applying the provisions of this Agreement, except Article IV and Schedule C, shall be at the rates at which the Fund accounts for these currencies in accordance with Section 11 of this Article.

(c) Computations for the determination of amounts of currency in relation to quota for the purpose of applying the provisions of this Agreement shall not include currency held in the Special Disbursement Account or in the Investment Account.

SECTION 11. MAINTENANCE OF VALUE

(a) The value of the currencies of members held in the General Resources Account shall be maintained in terms of the special drawing right in accordance with exchange rates under Article XIX, Section 7(a).

(b) An adjustment in the Fund's holdings of a member's currency pursuant to this Section shall be made on the occasion of the use of that currency in an operation or transaction between the Fund and another member and at such other times as the Fund may decide or the member may request. Payments to or by the Fund in respect of an adjustment shall be made within a reasonable time, as determined by the Fund, after the date of adjustment, and at any other time requested by the member.

SECTION 12. OTHER OPERATIONS AND TRANSACTIONS

(a) The Fund shall be guided in all its policies and decisions under this Section by the objectives set forth in Article VIII, Section 7 and by the objective of avoiding the management of the price, or the establishment of a fixed price, in the gold market.

(b) Decisions of the Fund to engage in operations or transactions under (c), (d), and (e) below shall be made by an eighty-five percent majority of the total voting power.

(c) The Fund may sell gold for the currency of any member after consulting the member for whose currency the gold is sold, provided that the Fund's holdings of a member's currency held in the General Resources Account shall not be increased by the sale above the level at which they would be subject to charges under Section 8(b)(ii) of this Article without the concurrence of the member, and provided that, at the request of the member, the Fund at the time of sale shall exchange for the currency of another member such part of the currency received as would prevent such an increase. The exchange of a currency for the currency of another member shall be made after consultation with that member, and shall not increase the Fund's holdings of that member's currency above the level at which they would be subject to charges under Section 8(b)(ii) of this Article. The Fund shall adopt policies and procedures with regard to exchanges that take into account the principles applied under Section 7(i) of this Article. Sales under this provision to a member shall be at a price agreed for each transaction on the basis of prices in the market.

(d) The Fund may accept payments from a member in gold instead of special drawing rights or currency in any operations or transactions under this agreement. Payments to the Fund under this provision shall be at a price agreed for each operation or transaction on the basis of prices in the market.

(e) The Fund may sell gold held by it on the date of the second amendment of this Agreement to those members that were members on August 31, 1975 and that agree to buy it, in proportion to their quotas on that date. If the Fund intends to sell gold under (c) above for the purpose of (f)(ii) below, it may sell to each developing member that agrees to buy it that portion of the gold which, if sold under (c) above, would have produced the excess that could have been distributed to it under (f)(iii) below. The gold that would be sold under this provision to a member that has been declared ineligible to use the general resources of the Fund under Section 5 of this Article shall be sold to it when the ineligibility ceases, unless the Fund decides to make the sale sooner. The sale of gold to a member under this subsection (e) shall be made in exchange for its currency and at a price equivalent at the time of sale to one special drawing right per 0.888 671 gram of fine gold.

(f) Whenever under (c) above the Funds sells gold held by it on the date of the second amendment of this Agreement, an amount of the proceeds equivalent at the time of sale to one special drawing right per 0.888 671 gram of fine gold shall be placed in the General Resources Account and, except as the Fund may decide otherwise under (g) below, any excess shall be held in the Special Disbursement Account. The assets held in the Special Disbursement Account shall be held separately from the other accounts of the General Department, and may be used at any time:

(i) to make transfers to the General Resources Account for immediate use in operations and transactions authorized by provisions of this Agreement other than this Section;

(ii) for operations and transactions that are authorized by other provisions of this Agreement but are consistent with the purposes of the Fund. Under this subsection (f)(ii) balance of payments assistance may be made in difficult circumstances, and for this purpose the Fund shall take into account the level of per capita income;

(iii) for distribution to those developing members that were members on August 31, 1975, in proportion to their quotas on that date, of such part of the assets that the Fund decides to use for the purposes of (ii) above as corresponds to the proportion of the quotas of these members on the date of distribution to the total of the quotas of all members on the same date, provided that the distribution under this provision to a member that has been declared ineligible to use the general resources of the Fund under Section 5 of this Article shall be made when the ineligibility ceases, unless the Fund decides to make distribution sooner.

Decisions to use assets pursuant to (i) above shall be taken by a seventy percent majority of the total voting power, and decisions pursuant to (ii) and (iii) above shall be taken by an eighty-five percent majority of the total voting power.

(g) The Fund may decide, by an eighty-five percent majority of the total voting power, to transfer a part of the excess referred to in (f) above to the Investment Account for use pursuant to the provisions of Article XII, Section 6(f).

(h) Pending uses specified under (f) above, the Fund may invest a member's currency held in the Special Disbursement Account in marketable obligations of that member or in marketable obligations of international financial organizations. The income of investment and interest received under (f)(ii) above shall be placed in the Special Disbursement Account. No investment shall be made without the concurrence of the member whose currency is used to make the investment. The Fund shall invest only in obligations denominated in special drawing rights or in the currency used for investment.

(i) The General Resources Account shall be reimbursed from time to time in respect of the expenses of administration of the Special Disbursement Account paid from the General Resources Account by transfers from the Special Disbursement Account on the basis of a reasonable estimate of such expenses.

(j) The Special Disbursement Account shall be terminated in the event of the liquidation of the Fund and may be terminated prior to liquidation of the Fund by a seventy percent majority of the total voting power. Upon termination of the account because of the liquidation of the Fund, any assets in this account shall be distributed in accordance with the provisions of Schedule K. Upon termination prior to liquidation of the Fund, any assets in this account shall be transferred to the General Resources Account for immediate use in operations and transactions. The Fund, by a seventy percent majority of the total voting power, shall adopt rules and regulations for the administration of the Special Disbursement Account.

ARTICLE VI—CAPITAL TRANSFERS

SECTION 1. USE OF THE FUND'S GENERAL RESOURCES FOR CAPITAL TRANSFERS

(*a*) A member may not use the Fund's general resources to meet a large or sustained outflow of capital except as provided in Section 2 of this Article, and the Fund may request a member to exercise controls to prevent such use of the general resources of the Fund. If, after receiving such a request, a member fails to exercise appropriate controls the Fund may declare the member ineligible to use the general resources of the Fund.

(*b*) Nothing in this section shall be deemed:

(i) to prevent the use of the general resources of the Fund for capital transactions of reasonable amount required for the expansion of exports or in the ordinary course of trade, banking or other business; or

(ii) to affect capital movements which are met out of a member's own resources but members undertake that such capital movements will be in accordance with the purposes of the Fund.

SECTION 2. SPECIAL PROVISIONS FOR CAPITAL TRANSFERS

A member shall be entitled to make reserve tranche purchases to meet capital transfers.

SECTION 3. CONTROLS OF CAPITAL TRANSFERS

Members may exercise such controls as are necessary to regulate international capital movements, but no member may exercise these controls in a manner which will restrict payments for current transactions or which will unduly delay transfers of funds in settlement of commitments, except as provided in Article VII, Section 3(b), and in Article XIV, Section 2.

ARTICLE VII—REPLENISHMENT AND SCARCE CURRENCIES

SECTION 1. MEASURES TO REPLENISH THE FUND'S HOLDINGS OF SCARCE CURRENCIES

The Fund may, if it deems such action appropriate to replenish its holdings of any member's currency in the General Resources Account needed in connection with its transactions, take either or both of the following steps:

(i) Propose to the member that, on terms and conditions agreed between the Fund and the member, the latter lend its currency to the Fund or that, with the concurrence of the member, the Fund borrow such currency from some other source either within or outside the territories of the member, but no member shall be under any obligation to make such loans to the Fund or to concur the borrowing of its currency by the Fund from any other source.

(ii) Require the member, if it is a participant, to sell its currency to the Fund for special drawing rights held in the General Resources Account, subject to Article XIX, Section 4. In replenishing with special drawing rights, the Fund shall pay due regard to the principles of designation under Article XIX, Section 5.

SECTION 2. GENERAL SCARCITY OF CURRENCY

If the Fund finds that a general scarcity of a particular currency is developing, the Fund may so inform members and may issue a report setting forth the causes of the scarcity and containing recommendations designed to bring it to an end. A representative of the member whose currency is involved shall participate in the preparation of the report.

SECTION 3. SCARCITY OF THE FUND'S HOLDINGS

(*a*) If it becomes evident to the Fund that the demand for a member's currency seriously threatens the Fund's ability to supply that currency, the Fund, whether or not it has issued a report under Section 2 of this Article, shall formally declare such currency scarce and shall thenceforth apportion its existing and accruing supply of the scarce currency with due regard to the relative needs of members, the general international economic situation and any other pertinent considerations. The Fund shall also issue a report concerning its action.

(*b*) A formal declaration under (a) above shall operate as an authorization to any member, after consultation with the Fund, temporarily to impose limitations on the freedom of exchange operations in the scarce currency. Subject to the provisions of Article IV, and Schedule C, the member shall have complete jurisdiction in determining the nature of such limitations, but they shall be no more restrictive than is necessary to limit the demand for the scarce currency to the supply held by, or accruing to, the member in question, and they shall be relaxed and removed as rapidly as conditions permit.

(*c*) The authorization under (b) above shall expire whenever the Fund formally declares the currency in question to be no longer scarce.

SECTION 4. ADMINISTRATION OF RESTRICTIONS

Any member imposing restrictions in respect of the currency of any other member pursuant to the provisions of Section 3(*b*) of this Article shall give sympathetic consideration to any representations by the other member regarding the administration of such restrictions.

SECTION 5. EFFECT OF OTHER INTERNATIONAL AGREEMENTS ON RESTRICTIONS

Members agree not to invoke the obligations of any engagements entered into with other members prior to this Agreement in such a manner as will prevent the operation of the provisions of this Article.

ARTICLE VIII—GENERAL OBLIGATIONS OF MEMBERS

SECTION 1. INTRODUCTION

In addition to the obligations assumed under other articles of this Agreement, each member undertakes the obligations set out in this Article.

SECTION 2. AVOIDANCE OF RESTRICTIONS ON CURRENT PAYMENTS

(*a*) Subject to the provisions of Article VII, Section 3(*b*), and Article XIV, Section 2, no member shall, without the approval of the Fund, impose restrictions on the making of payments and transfers for current international transactions.

(*b*) Exchange contracts which involve the currency of any member and which are contrary to the exchange control regulations of that member maintained or imposed consistently with this Agreement shall be unenforceable in the territories of any member. In addition, members may, by mutual accord, cooperate in measures for the purpose of making the exchange control regulations of either member more effective, provided that such measures and regulations are consistent with this Agreement.

SECTION 3. AVOIDANCE OF DISCRIMINATORY CURRENCY PRACTICES

No member shall engage in, or permit any of its fiscal agencies referred to in Article V, Section 1, to engage in, any discriminatory currency arrangements or multiple currency practices, whether within or outside margins under Article IV or prescribed by or under Schedule C, except as authorized under this Agreement or approved by the Fund. If such arrangements and practices are engaged in at the date when this Agreement enters into force, the member concerned shall consult with the Fund as to their progressive removal unless they are maintained or imposed under Article XIV, Section 2, in which case the provisions of Section 3 of that Article shall apply.

SECTION 4. CONVERTIBILITY OF FOREIGN HELD BALANCES

(*a*) Each member shall buy balances of its currency held by another member if the latter, in requesting the purchase, represents

(i) that the balances to be bought have been recently acquired as a result of current transactions; or

(ii) that their conversion is needed for making payments for current transactions.

The buying member shall have the option to pay either in special drawing rights, subject to Article XIX, Section 4, or in the currency of the member making the request.

(*b*) The obligation in (*a*) above shall not apply

(i) when the convertibility of the balances has been restricted consistently with Section 2 of this Article, or Article VI, Section 3;

(ii) when the balances have accumulated as a result of transactions effected before the removal by a member of restrictions maintained or imposed under Article XIV, Section 2;

(iii) the balances have been acquired contrary to the exchange regulations of the member which is asked to buy them;

(iv) the currency of the member requesting the purchase has been declared scarce under Article VII, Section 3(*a*); or

(v) the member requested to make the purchase is for any reason not entitled to buy currencies of other members from the Fund for its own currency.

SECTION 5. FURNISHING OF INFORMATION

(*a*) The Fund may require members to furnish it with such information as it deems necessary for its activities, including, as the minimum necessary for the effective discharge of the Fund's duties, national data on the following matters:

(i) Official holdings at home and abroad, of (1) gold, (2) foreign exchange.

(ii) Holdings at home and abroad by banking and financial agencies, other than official agencies, of (1) gold, (2) foreign exchange.

(iii) Production of gold.

(iv) Gold exports and imports according to countries of destination and origin.

(v) Total exports and imports of merchandise, in terms of local currency values, according to countries of destination and origin.

(vi) International balance of payments, including (1) trade in goods and services, (2) gold transaction, (3) known capital transactions, and (4) other items.

(vii) International investment position, *i.e.*, investments within the territories of the member owned abroad and investments abroad owned by persons in its territories so far as it is possible to furnish this information.

(viii) National income.

(ix) Price indices, *i.e.*, indices of commodity prices in wholesale and retail markets and of export and import prices.

(x) Buying and selling rates for foreign currencies.

(xi) Exchange controls, *i.e.*, a comprehensive statement of exchange controls in effect at the time of assuming membership in the Fund and details of subsequent changes as they occur.

(xii) Where official clearing arrangements exist, details of amounts awaiting clearance in respect of commercial and financial transactions, and of the length of time during which such arrears have been outstanding.

(*b*) In requesting information the Fund shall take into consideration the varying ability of members to furnish the data requested. Members shall be under no obligation to furnish information in such detail that the affairs of individuals or corporations are disclosed. Members undertake, however, to furnish the desired information in as detailed and accurate a manner as is practicable, and, so far as possible, to avoid mere estimates.

(c) The Fund may arrange to obtain further information by agreement with members. It shall act as a centre for the collection and exchange of information on monetary and financial problems, thus facilitating the preparation of studies designed to assist members in developing policies which further the purposes of the Fund.

SECTION 6. CONSULTATION BETWEEN MEMBERS REGARDING EXISTING INTERNATIONAL AGREEMENTS

Where under this Agreement a member is authorized in the special or temporary circumstances specified in the agreement to maintain or establish restrictions on exchange transactions, and there are other engagements between members entered into prior to this Agreement which conflict with the application of such restrictions, the parties to such engagements shall consult with one another with a view to making such mutually acceptable adjustments as may be necessary. The provisions of this Article shall be without prejudice to the operation of Article VII, Section 5.

SECTION 7. OBLIGATION TO COLLABORATE REGARDING POLICIES ON RESERVE ASSETS

Each member undertakes to collaborate with the Fund and with other members in order to ensure that the policies of the member with respect to reserve assets shall be consistent with the objectives of promoting better international surveillance of international liquidity and making the special drawing right the principal reserve asset in the international monetary system.

ARTICLE IX—STATUS, IMMUNITIES AND PRIVILEGES

SECTION 1. PURPOSES OF ARTICLE

To enable the Fund to fulfill the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Fund in the territories of each member.

SECTION 2. STATUS OF THE FUND

The fund shall possess full juridical personality, and, in particular, the capacity:

(i) to contract;

(ii) to acquire and dispose of immovable and movable property; and

(iii) to institute legal proceedings.

SECTION 3. IMMUNITY FROM JUDICIAL PROCESS

The Fund, its property and its assets, wherever located and by whomsoever held, shall enjoy immunity from every form of judicial process except to the extent that it expressly waives its immunity for the purpose of any proceedings or by the terms of any contract.

SECTION 4. IMMUNITY FROM OTHER ACTION

Property and assets of the Fund, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

SECTION 5. IMMUNITY OF ARCHIVES

The archives of the Fund shall be inviolable.

SECTION 6. FREEDOM OF ASSETS FROM RESTRICTIONS

To the extent necessary to carry out the operations provided for in this Agreement, all property and assets of the Fund shall be free from restrictions, regulations, controls and moratoria of any nature.

SECTION 7. PRIVILEGE FOR COMMUNICATIONS

The official communications of the Fund shall be accorded by members the same treatment as the official communications of other members.

SECTION 8. IMMUNITIES AND PRIVILEGES OF OFFICERS AND EMPLOYEES

All governors, executive directors, alternates members of committees, representatives appointed under Article XII, Section 3(j), advisors of any of the foregoing persons, officers and employees of the Fund:

(i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Fund waives this immunity.

(ii) not being local nationals, shall be granted the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials, and employees of comparable rank of other members, and

(iii) shall be granted the same treatment in respect of traveling facilities as is accorded by members to representatives, officials, and employees of comparable rank of other members.

SECTION 9. IMMUNITIES FROM TAXATION

(*a*) The Fund, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Fund shall also be immune from liability for the collection or payment of any tax or duty.

(*b*) No tax shall be levied on or in respect of salaries and emoluments paid by the Fund to executive directors, alternates, officers or employees of the Fund who are not local citizens, local subjects, or other local nationals.

(*c*) No taxation of any kind shall be levied on any obligation or security issued by the Fund, including any dividend or interest thereon, by whomsoever held

(i) which discriminates against such obligation or security solely because of its origin; or

(ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid,

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or the location of any office or place of business maintained by the Fund.

SECTION 10. APPLICATION OF ARTICLE

Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this Article and shall inform the Fund of the detailed action which it has taken.

ARTICLE X—RELATIONS WITH OTHER INTERNATIONAL ORGANIZATIONS

The Fund shall cooperate within the terms of this Agreement with any general international organization and with public international organizations having specialized responsibilities in related fields. Any arrangements for such cooperation which would involve a modification of any provision of this Agreement may be effected only after amendment to this Agreement under Article XVIII.

ARTICLE XI—RELATIONS WITH NON-MEMBER COUNTRIES

SECTION 1. UNDERTAKINGS REGARDING RELATIONS WITH NON-MEMBER COUNTRIES

Each member undertakes:

(i) Not to engage in, nor to permit any of its fiscal agencies referred to in Article V, Section 1, to engage in, any transactions with a non-member or with persons in a non-member's territories which would be contrary to the provisions of this Agreement or the purposes of the Fund;

(ii) Not to cooperate with a non-member or with persons in a non-member's territories in practices which would be contrary to the provisions of this Agreement or the purposes of the Fund; and

(iii) To cooperate with the Fund with a view to the application in its territories of appropriate measures to prevent transactions with non-members or with persons in their territories which would be contrary to the provisions of this Agreement or the purposes of the Fund.

SECTIONS 2. RESTRICTIONS ON TRANSACTIONS WITH NON-MEMBER COUNTRIES

Nothing in this Agreement shall affect the right of any member to impose restrictions on exchange transactions with non-members or with persons in their territories unless the Fund finds that such restrictions prejudice the interests of members and are contrary to the purposes of the Fund.

ARTICLE XII—ORGANIZATION AND MANAGEMENT

SECTION 1. STRUCTURE OF THE FUND

The Fund shall have a Board of Governors, Executive Board, a Managing Director and a staff, and a Council if the Board of Governors decides, by an eighty-five percent majority of the total voting power, that the provisions of Schedule D shall be applied.

SECTION 2. BOARD OF GOVERNORS

(*a*) All powers under this Agreement not conferred directly on the Board of Governors, the Executive Board, or the Managing Director shall be vested in the Board of Governors. The Board of Governors shall consist of one Governor and one Alternate appointed by each member in such manner as it may determine. Each Governor and Alternate shall serve until a new appointment is made. No Alternate may vote except in the absence of his principal. The Board of Governors shall select one of the Governors as chairman.

(*b*) The Board of Governors may delegate to the Executive Board authority to exercise any powers of the Board of Governors, except the powers conferred directly by this Agreement on the Board of Governors.

(*c*) The Board of Governors shall hold such meetings as may be provided for by the Board of Governors or called by the Executive Board. Meetings of the Board of Governors shall be called whenever requested by fifteen members or by members having one-quarter of the total voting power.

(*d*) A quorum for any meeting of the Board of Governors shall be a majority of the governors having not less than two-thirds of the total voting power.

(*e*) Each governor shall be entitled to cast the number of votes allotted under Section 5 of this Article to the member appointing him.

(*f*) The Board of Governors may by regulation establish a procedure whereby the Executive Board, when it deems such action to be in the best interests of the Fund, may obtain a vote of the governors on a specific question without calling a meeting of the Board of Governors.

(*g*) The Board of Governors, and the Executive Board to the extent authorized, may adopt such rules and regulations as may be necessary or appropriate to conduct the business of the Fund.

(*h*) Governors and alternates shall serve as such without compensation from the Fund, but the Fund shall pay them reasonable expenses incurred in attending meetings.

(*i*) The Board of Governors shall determine the remuneration to be paid to the Executive Directors and their Alternates and the salary and terms of the contract of service of the Managing Director.

(*j*) The Board of Governors and the Executive Board may appoint such committees as they deem advisable. Membership of committees need not be limited to Governors or Executive Directors or their Alternates.

SECTION 3. EXECUTIVE BOARD

(*a*) The Executive Board shall be responsible for conducting the business of the Fund, and for this purpose shall exercise all the powers delegated to them by the Board of Governors.

(*b*) The Executive Board shall consist of Executive Directors with the Managing Director as chairman. Of the Executive Directors:

(i) five shall be appointed by the five members having the largest quotas; and

(ii) fifteen shall be elected by the other members.

For the purpose of each regular election of Executive Directors, the Board of Governors, by an eighty-five percent majority of the total voting power, may increase or decrease the number of Executive Directors in (ii) above. The number of Executive Directors in (ii) above shall be reduced by one or two, as the case may be, if Executive Directors are appointed under (*c*) below, unless the Board of Governors decides, by an eighty-five percent majority of the total voting power, that this reduction would hinder the effective discharge of the functions of the Executive Board or of Executive Directors or would threaten to upset a desirable balance in the Executive Board.

(*c*) If, at the second regular election of Executive Directors and thereafter, the members, entitled to appoint Executive Directors under (*b*)(i) above do not include the two members, the holdings of whose currencies by the Fund in the General Resources Account have been, on the average over the preceding two years, reduced below their quotas by the largest absolute amounts in terms of the special drawing right, either one or both of such members, as the case may be, may appoint an Executive Director.

(*d*) Elections of elective Executive Directors shall be conducted at intervals of two years in accordance with the provisions of Schedule E, supplemented by such regulations as the Fund deems appropriate. For each regular election of Executive Directors, the Board of Governors may issue regulations making changes in the proportion of votes required to elect Executive Directors under the provisions of Schedule E.

(*e*) Each Executive Director shall appoint an alternate with full power to act for him when he is not present. When the Executive Directors appointing them are present, alternates may participate in meetings but may not vote.

(*f*) Executive Directors shall continue in office until their successors are appointed or elected. If the office of an elected Executive Director becomes vacant more than ninety days before the end of his term, another Executive Director shall be elected for the remainder of the term by the members that elected the former Executive Director. A majority of the votes cast shall be required for election. While the office remains vacant, the alternate of the former Executive Director shall exercise his powers, except that of appointing an alternate.

(*g*) The Executive Board shall function in continuous session at the principal office of the Fund and shall meet as often as the business of the Fund may require.

(*h*) A quorum for any meeting of the Executive Board shall be a majority of the Executive Directors having not less than one-half of the total voting power.

(*i*)(i) Each appointed Executive Director shall be entitled to cast the number of votes allotted under Section 5 of this Article to the member appointing him.

(ii) If the votes allotted to a member that appoints an Executive Director under (*c*) above were cast by an Executive Director together with the votes allotted to other members as a result of the last regular election of Executive Directors, the member may agree with each of the other members that the number of votes allotted to it shall be cast by the appointed Executive Director. A member making such an agreement shall not participate in the election of Executive Directors.

(iii) Each elected Executive Director shall be entitled to cast the number of votes which counted towards his election.

(iv) When the provisions of Section 5(b) of this Article are applicable, the votes which an Executive Director would otherwise be entitled to cast shall be increased or decreased correspondingly. All the votes which an Executive Director is entitled to cast shall be cast as a unit.

(*j*) The Board of Governors shall adopt regulations under which a member not entitled to appoint an Executive Director under (*b*) above may send a representative to attend any meeting of the Executive Board when a request made by, or a matter particularly affecting, the member is under consideration.

SECTION 4. MANAGING DIRECTOR AND STAFF

(*a*) The Executive Board shall select a Managing Director who shall not be a governor or an Executive Director. The Managing Director shall be chairman of the Executive Board, but shall have no vote except a deciding vote in case of an equal division. He may participate in meetings of the Board of Governors, but shall not vote at such meetings. The Managing Director shall cease to hold office when the Executive Board so decide.

(*b*) The Managing Director shall be chief of the operating staff of the Fund and shall conduct, under the direction of the Executive Board, the ordinary business of the Fund. Subject to the general control of the Executive Board, he shall be responsible for the organization, appointment and dismissal of the staff of the Fund.

(*c*) The Managing Director and the staff of the Fund, in the discharge of their functions, shall owe their duty entirely to the Fund and to no other authority. Each member of the Fund shall respect the international character of this duty and shall refrain from all attempts to influence any of the staff in the discharge of these functions.

(*d*) In appointing the staff the Managing Director shall, subject to the paramount importance of securing the highest standards of efficiency and of technical competence, pay due regard to the importance of recruiting personnel on as wide a geographical basis as possible.

SECTION 5. VOTING

(*a*) Each member shall have two hundred fifty votes plus one additional vote for each part of its quota equivalent to one hundred thousand special drawing rights.

(*b*) Whenever voting is required under Article V, Section 4 or 5, each member shall have the number of votes to which it is entitled under (*a*) above, adjusted:

(i) by the addition of one vote for the equivalent of each four hundred thousand special drawing rights of net sales of its currency up to the date when the vote is taken, or

(ii) by the subtraction of one vote for the equivalent of each four hundred thousand special drawing rights of its net pur-

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chases under Article V, Section 3 (b) and (f) up to the date when the vote is taken

provided, that neither net purchases nor net sales shall be deemed at any time to exceed an amount equal to the quota of the member involved.

(*c*) Except as otherwise specifically provided, all decisions of the Fund shall be made by a majority of the votes cast.

SECTION 6. RESERVES AND DISTRIBUTION OF NET INCOME, AND INVESTMENT

(*a*) The Fund shall determine annually what part of its net income shall be placed to general reserve or special reserve, and what part, if any, shall be distributed.

(*b*) The Fund may use the special reserve for any purpose for which it may use the general reserve, except distribution.

(*c*) If any distribution is made of the net income of any year, it shall be made to all members in proportion to their quotas.

(*d*) The Fund, by a seventy percent majority of the total voting power, may decide at any time to distribute any part of the general reserve. Any such distribution shall be made to all members in proportion to their quotas.

(*e*) Payments under (*c*) and (*d*) above shall be made in special drawing rights, provided that either the Fund or the member may decide that the payment to the member shall be made in its own currency.

(*f*)(i) The Fund may establish an Investment Account for the purposes of this subsection (*f*). The assets of the Investment Account shall be held separately from the other accounts of the General Department.

(ii) The Fund may decide to transfer to the Investment Account a part of the proceeds of the sale of gold in accordance with Article V, Section 12(g) and, by a seventy percent majority of the total voting power, may decide to transfer to the Investment Account, for immediate investment, currencies held in the General Resources Account. The amount of these transfers shall not exceed the total amount of the general reserve and the special reserve at the time of the decision.

(iii) The Fund may invest a member's currency held in the Investment Account in marketable obligations of that member or in marketable obligations of international financial organizations. No investment shall be made without the concurrence of the member whose currency is used to make the investment. The Fund shall invest only in obligations denominated in special drawing rights or in the currency used for investment.

(iv) The income of investment may be invested in accordance with the provisions of this subsection (*f*). Income not invested shall be held in the Investment Account or may be used for meeting the expenses of conducting the business of the Fund.

(v) The Fund may use a member's currency held in the Investment Account to obtain the currencies needed to meet the expenses of conducting the business of the Fund.

(vi) The Investment Account shall be terminated in the event of liquidation of the Fund and may be terminated, or the amount of the investment may be reduced, prior to liquidation of the Fund by a seventy percent majority of the total voting power. The Fund, by a seventy percent majority of the total voting power, shall adopt rules and regulations regarding administration of the Investment Account, which shall be consistent with (vii), (viii), and (ix) below.

(vii) Upon termination of the Investment Account because of liquidation of the Fund, any assets in this account shall be distributed in accordance with the provisions of Schedule K, provided that a portion of these assets corresponding to the proportion of the assets transferred to this account under Article V, Section 12(g) to the total of the assets transferred to this account shall be deemed to be assets held in the Special Disbursement Account and shall be distributed in accordance with Schedule K, paragraph 2(a)(ii).

(viii) Upon termination of the Investment Account prior to liquidation of the Fund, a portion of the assets held in this account corresponding to the proportion of the assets transferred to this account under Article V, Section 12(g) to the total of the assets transferred to the account shall be transferred to the Special Disbursement Account if it has not been terminated, and the balance of the assets held in the Investment Account shall be transferred to the General Resources Account for immediate use in operations and transactions.

(ix) On a reduction of the amount of the investment by the Fund, a portion of the reduction corresponding to the proportion of the assets transferred to the Investment Account under Article V, Section 12(g) to the total of the assets transferred to the Special Disbursement Account if it has not been terminated, and the balance of the reduction shall be transferred to the General Resources Account for immediate use in operations and transactions.

SECTION 7. PUBLICATION OF REPORTS

(*a*) The Fund shall publish an annual report containing an audited statement of its accounts, and shall issue, at intervals of three months or less, a summary statement of its operations and transactions and its holdings of special drawing rights, gold and currencies of members.

(*b*) The Fund may publish such other reports as it deems desirable for carrying out its purposes.

SECTION 8. COMMUNICATION OF VIEWS TO MEMBERS

The Fund shall at all times have the right to communicate its views informally to any member on any matter arising under this Agreement. The Fund may, by a seventy percent majority of the total voting power, decide to publish a report made to a member regarding its monetary or economic conditions and developments which directly tend to produce a serious disequilibrium in the international balance of payments of members. If the member is not entitled to appoint an executive director, it shall be entitled to representation in accordance with Section 3(*j*) of this Article. The Fund shall not publish a report involving changes in the fundamental structure of the economic organization of members.

ARTICLE XIII—OFFICES AND DEPOSITORIES

SECTION 1. LOCATION OF OFFICES

The principal office of the Fund shall be located in the territory of the member having the largest quota, and agencies or branch offices may be established in the territories of other members.

SECTION 2. DEPOSITORIES

(*a*) Each member country shall designate its central bank as a depository for all the Fund's holdings of its currency, or if it has no central bank it shall designate such other institution as may be acceptable to the Fund.

(*b*) The Fund may hold other assets, including gold, in the depositories designated by the five members having the largest quotas and in such other designated depositories as the Fund may select. Initially, at least one-half of the holdings of the Fund shall be held in the depository designated by the member in whose territories the Fund has its principal office and at least forty percent shall be held in the depositories designated by the remaining four members referred to above. However, all transfers of gold by the Fund shall be made with due regard to the costs of transport and anticipated requirements of the Fund. In an emergency the Executive Board may transfer all or any part of the Fund's gold holdings to any place where they can be adequately protected.

SECTION 3. GUARANTEE OF THE FUND'S ASSETS

Each member guarantees all assets of the Fund against loss resulting from failure or default or on the part of the depository designated by it.

ARTICLE XIV—TRANSITIONAL ARRANGEMENTS

SECTION 1. NOTIFICATION TO THE FUND

Each member shall notify the Fund whether it intends to avail itself of the transitional arrangements in Section 2 of this Article, or whether it is prepared to accept the obligations of Article VIII, Sections 2, 3, and 4. A member availing itself of the transitional arrangements shall notify the Fund as soon thereafter as it is prepared to accept these obligations.

SECTION 2. EXCHANGE RESTRICTIONS

A member that has notified the Fund that it intends to avail itself of transitional arrangements under this provision may, notwithstanding the provisions of any other article of this Agreement, maintain and adapt to changing circumstances the restrictions on payments and transfers for current international transactions that were in effect on the date on which it became a member. Members shall, however, have continuous regard in their foreign exchange policies to the purposes of the Fund; and, as soon as conditions permit, they shall take all possible measures to develop such commercial and financial arrangements with other members as will facilitate international payments and the promotion of a stable system of exchange rates. In particular, members shall withdraw restrictions maintained under this Section as soon as they are satisfied that they will be able, in the absence of such restrictions, to settle their balance of payments in a manner which will not unduly encumber their access to the general resources of the Fund.

SECTION 3. ACTION OF THE FUND RELATING TO RESTRICTIONS

The Fund shall make annual reports on the restrictions in force under Section 2 of this Article. Any member retaining any restrictions inconsistent with Article VIII, Sections 2, 3, or 4 shall consult the Fund annually as to their further retention. The Fund may, if it deems such action necessary in exceptional circumstances, make representations to any member that conditions are favorable for the withdrawal of any particular restriction, or for the general abandonment of restrictions, inconsistent with the provisions of any other articles of this Agreement. The member shall be given a suitable time to reply to such representations. If the Fund finds that the member persists in maintaining restrictions which are inconsistent with the purposes of the Fund, the member shall be subject to Article XXVI, Section 2*(a)*.

ARTICLE XV—SPECIAL DRAWING RIGHTS

SECTION 1. AUTHORITY TO ALLOCATE SPECIAL DRAWING RIGHTS

To meet the need, as and when it arises, for a supplement to existing reserve assets, the Fund is authorized to allocate special drawing rights to members that are participants in the Special Drawing Department.

SECTION 2. VALUATION OF THE SPECIAL DRAWING RIGHT

The method of valuation of the special drawing right shall be determined by the Fund by a seventy percent majority of the total voting power, provided, however, that an eighty-five percent majority of the total voting power shall be required for a change in the principle of valuation or a fundamental change in the application of the principle in effect.

ARTICLE XVI—GENERAL DEPARTMENT AND SPECIAL DRAWING RIGHTS DEPARTMENT

SECTION 1. SEPARATION OF OPERATIONS AND TRANSACTIONS

All operations and transactions involving special drawing rights shall be conducted through the Special Drawing Rights Department. All other operations and transactions on the account of the Fund authorized by or under this Agreement shall be conducted through the General Department. Operations and transactions pursuant to Article XVII, Section 2, shall be conducted through the General Department as well as the Special Drawing Rights Department.

SECTION 2. SEPARATION OF ASSETS AND PROPERTY

All assets and property of the Fund, except resources administered under Article V, Section 2(b), shall be held in the General Department, provided that assets and property acquired under Article

XX, section 2 and Article XXIV and XXV and Schedules H and I shall be held in the Special Drawing Rights Department. Any assets or property held in one Department shall not be available to discharge or meet the liabilities, obligations, or losses of the Fund incurred in the conduct of the operations and transactions of the other Department, except that the expenses of conducting the business of the Special Drawing Rights Department shall be paid by the Fund from the General Department which shall be reimbursed in special drawing rights from time to time by assessments under Article XX, Section 4 made on the basis of a reasonable estimate of such expenses.

SECTION 3. RECORDING AND INFORMATION

All changes in holdings of special drawing rights shall take effect only when recorded by the Fund in the Special Drawing Rights Department. Participants shall notify the Fund of the provisions of this Agreement under which special drawing rights are used. The Fund may require participants to furnish it with such other information as it deems necessary for its functions.

ARTICLE XVII—PARTICIPANTS AND OTHER HOLDERS OF SPECIAL DRAWING RIGHTS

SECTION 1. PARTICIPANTS

Each member of the Fund that deposits with the Fund an instrument setting forth that it undertakes all the obligations of a participant in the Special Drawing Rights Department in accordance with its law and that it has taken all steps necessary to enable it to carry out all of these obligations shall become a participant in the Special Drawing Rights Department as of the date the instrument is deposited, except that no member shall become a participant before the provisions of this Agreement pertaining exclusively to the Special Drawing Rights Department have entered into force and instruments have been deposited under this Section by members that have at least seventy-five percent of the total of quotas.

SECTION 2. FUND AS A HOLDER

The Fund may hold special drawing rights in the General Resources Account and may accept and use them in operations and transactions conducted through the General Resources Account with participants in accordance with the provisions of this Agreement or with prescribed holders in accordance with the terms and conditions prescribed under Section 3 of this Article.

SECTION 3. OTHER HOLDERS

The Fund may prescribe:

(i) as holders, non-members, members that are non-participants, institutions that perform functions of a central bank for more than one member, and other official entities;

(ii) the terms and conditions on which prescribed holders may be permitted to hold special drawing rights and may accept and use them in operations and transactions with participants and other prescribed holders; and

(iii) the terms and conditions on which participants and the Fund through the General Resources Account may enter into operations and transactions in special drawing rights with prescribed holders.

An eighty-five percent majority of the total voting power shall be required for prescriptions under (i) above. The terms and conditions prescribed by the Fund shall be consistent with the provisions of this Agreement and the effective functioning of the Special Drawing Rights Department.

ARTICLE XVIII—ALLOCATION AND CANCELLATION OF SPECIAL DRAWING RIGHTS

SECTION 1. PRINCIPLES AND CONSIDERATIONS GOVERNING ALLOCATION AND CANCELLATION

(*a*) In all its decisions with respect to the allocation and cancellation of special drawing rights the Fund shall seek to meet the long-term global need, as and when it arises, to supplement existing reserve assets in such manner as will promote the attainment of its purposes and will avoid economic stagnation and deflation as well as excess demand and inflation in the world.

(*b*) The first decision to allocate special drawing rights shall take into account, as special considerations, a collective judgment that there is a global need to supplement reserves, and the attainment of a better balance of payments equilibrium, as well as the likelihood of a better working of the adjustment process in the future.

SECTION 2. ALLOCATION AND CANCELLATION

(*a*) Decisions of the Fund to allocate or cancel special drawing rights shall be made for basic periods which shall run consecutively and shall be five years in duration. The first basic period shall begin on the date of the first decision to allocate special drawing rights or such later date as may be specified in that decision. Any allocations or cancellations shall take place at yearly intervals.

(*b*) The rates at which allocations are to be made shall be expressed as percentages of quotas on the date of each decision to allocate. The rates at which special drawing rights are to be cancelled shall be expressed as percentages of net cumulative allocations of special drawing rights on the date of each decision to cancel. The percentages shall be the same for all participants.

(*c*) In its decision for any basic period the Fund may provide, notwithstanding (*a*) and (*b*) above, that:

(i) the duration of the basic period shall be other than five years; or

(ii) the allocations or cancellations shall take place at other than yearly intervals; or

(iii) the basis for allocations or cancellations shall be the quotas or net cumulative allocations on dates other than the dates of decisions to allocate or cancel.

(*d*) A member that becomes a participant after a basic period starts shall receive allocations beginning with the next basic period in which allocations are made after it becomes a participant unless the Fund decides that the new participant shall start to receive allocations beginning with the next allocation after it becomes a participant. If the Fund decides that a member that becomes a participant during a basic period shall receive allocations during the remainder of that basic period and the participant was not a member on the dates established under (*b*) or (*c*) above, the Fund shall determine the basis on which these allocations to the participant shall be made.

(*e*) A participant shall receive allocations of special drawing rights made pursuant to any decision to allocate unless:

(i) the governor for the participant did not vote in favor of the decision; and

(ii) the participant has notified the Fund in writing prior to the first allocation of special drawing rights under that decision that it does not wish special drawing rights to be allocated to it under the decision. On the request of a participant, the Fund may decide to terminate the effect of the notice with respect to allocations of special drawing rights subsequent to the termination.

(*f*) If on the effective date of any cancellation the amount of special drawing rights held by a participant is less than its share of the special drawing rights that are to be cancelled, the participant shall eliminate its negative balance as promptly as its gross reserve position permits and shall remain in consultation with the Fund for this purpose. Special drawing rights acquired by the participant after the effective rate of the cancellation shall be applied against its negative balance and cancelled.

SECTION 3. UNEXPECTED MAJOR DEVELOPMENTS

The Fund may change the rates or intervals of allocation or cancellation during the rest of a basic period or change the length of a basic period or start a new basic period, if at any time the Fund finds it desirable to do so because of unexpected major developments.

SECTION 4. DECISIONS ON ALLOCATIONS AND CANCELLATIONS

(*a*) Decisions under Section 2 (*a*), (*b*), and (*c*) or Section 3 of this Article shall be made by the Board of Governors on the basis of proposals of the Managing Director concurred in by the Executive Board.

(*b*) Before making any proposal, the Managing Director, after having satisfied himself that it will be consistent with the provisions of Section 1(*a*) of this Article, shall conduct such consultations as will enable him to ascertain that there is broad support among participants for the proposal. In addition, before making a proposal for the first allocation, the Managing Director shall satisfy himself that the provisions of Section 1(*b*) of this Article have been met and that there is a broad support among participants to begin allocations; he shall make a proposal for the first allocation as soon after the establishment of the Special Drawing Rights Department as he is so satisfied.

(*c*) The Managing Director shall make proposals:

(i) not later than six months before the end of each basic period;

(ii) if no decision has been taken with respect to allocation or cancellation for a basic period, whenever he is satisfied that the provisions of (*b*) above have been met;

(iii) when, in accordance with Section 3 of this Article, he considers that it would be desirable to change the rate or intervals of allocation or cancellation or change the length of a basic period or start a new basic period; or

(iv) within six months of a request by the Board of Governors or the Executive Board:

provided that, if under (i), (iii), or (iv) above the Managing Director ascertains that there is no proposal which he considers to be consistent with the provisions of Section 1 of this Article that has broad support among participants in accordance with (*b*) above, he shall report to the Board of Governors and to the Executive Board.

(*d*) An eighty-five percent majority of the total voting power shall be required for decisions under Section 2 (*a*), (*b*), and (*c*) or Section 3 of this Article except for decisions under Section 3 with respect to a decrease in the rates of allocation.

ARTICLE XIX—OPERATIONS AND TRANSACTIONS IN SPECIAL DRAWING RIGHTS

SECTION 1. USE OF SPECIAL DRAWING RIGHTS

Special drawing rights may be used in the operations and transactions authorized by or under this Agreement.

SECTION 2. OPERATIONS AND TRANSACTIONS BETWEEN PARTICIPANTS

(*a*) A participant shall be entitled to use its special drawing rights to obtain an equivalent amount of currency from a participant designated under Section 5 of this Article.

(*b*) A participant, in agreement with another participant, may use its special drawing rights to obtain an equivalent amount of currency from the other participant.

(*c*) The Fund, by a seventy percent majority of the total voting power, may prescribe operations in which a participant is authorized to engage in agreement with another participant on such terms and conditions as the Fund deems appropriate. The terms and conditions shall be consistent with the effective functioning of the Special Drawing Rights Department and the proper use of special drawing rights in accordance with this Agreement.

(*d*) The Fund may make representations to a participant that enters into any operation or transaction under (*b*) or (*c*) above that in the judgment of the Fund may be prejudicial to the process of designation according to the principles of Section 5 of this Article or is otherwise inconsistent with Article XXII. A participant that persists in entering into such operations or transactions shall be subject to Article XXIII, Section 2(*b*).

SECTION 3. REQUIREMENT OF NEED

(*a*) In transactions under Section 2(*a*) of this Article, except as otherwise provided in (*c*) below, a participant will be expected to use its special drawing rights only if it has a need because of its balance of payments or its reserve position or developments in its reserves, and not for the sole purpose of changing the composition of its reserves.

(*b*) The use of special drawing rights shall not be subject to challenge on the basis of the expectation in (*a*) above, but the Fund may make representations to a participant that fails to fulfill this expectation. A participant that persists in failing to fulfill this expectation shall be subject to Article XXIII, Section 2(*b*).

(*c*) The Fund may waive the expectation in (*a*) above in any transactions in which a participant uses special drawing rights to obtain an equivalent amount of currency from a participant designated under Section 5 of this Article that would promote reconstitution by the other participant under Section 6(*a*) of this Article; prevent or reduce a negative balance of the other participant; or offset the effect of a failure by the other participant to fulfill the expectation in (*a*) above.

SECTION 4. OBLIGATION TO PROVIDE CURRENCY

A participant designated by the Fund under Section 5 of this Article shall provide on demand a freely usable currency to a participant using special drawing rights under Section 2(*a*) of this Article. A participant's obligation to provide currency shall not extend beyond the point at which its holdings of special drawing rights in excess of its net cumulative allocation are equal to twice its net cumulative allocation or such higher limit as may be agreed between a participant and the Fund.

SECTION 5. DESIGNATION OF PARTICIPANTS TO PROVIDE CURRENCY

(*a*) The Fund shall ensure that a participant will be able to use its special drawing rights by designating participants to provide currency for specified amounts of special drawing rights for the purposes of Sections 2(*a*) and 4 of this Article. Designations shall be made in accordance with the following general principles supplemented by such other principles as the Fund may adopt from time to time:

(i) A participant shall be subject to designation if its balance of payments and gross reserve position is sufficiently strong, but this will not preclude the possibility that a participant with a strong reserve position will be designated even though it has a moderate balance of payments deficit. Participants shall be designated in such manner as will promote over time a balanced distribution of holdings of special drawing rights among them.

(ii) Participants shall be subject to designation in order to promote reconstitution under Section 6(*a*) of this Article; to reduce negative balances in holdings of special drawing rights; or to offset the effect of failures to fulfill the expectation in Section 3(*a*) of this Article.

(iii) In designating participants the Fund normally shall give priority to those that need to acquire special drawing rights to meet the objectives of designation under (ii) above.

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(*b*) In order to promote over time a balanced distribution of holdings of special drawing rights under (*a*)(i) above, the Fund shall apply the rules for designation in Schedule F or such rules as may be adopted under (*c*) below.

(*c*) The rules for designation shall be reviewed and new rules shall be adopted if necessary. Unless new rules are adopted, the rules in force at the time of the review shall continue to apply.

SECTION 6. RECONSTITUTION

(*a*) Participants that use their special drawing rights shall reconstitute their holdings of them in accordance with the rules for reconstitution in Schedule G or such rules as may be adopted under (*b*) below.

(*b*) The rules for reconstitution may be reviewed at any time and new rules shall be adopted if necessary. Unless new rules are adopted or a decision is made to abrogate rules for reconstitution, the rules in force at the time of the review shall continue to apply. A seventy percent majority of the total voting power shall be required for decisions to adopt, modify, or abrogate the rules for reconstitution.

SECTION 7. EXCHANGE RATES

(*a*) Except as otherwise provided in (*b*) below, the exhange rates for transactions between participants under Section 2 (*a*) and (*b*) of this Article shall be such that participants using special drawing rights shall receive the same value whatever currencies might be provided and whichever participants provide those currencies, and the Fund shall adopt regulations to give effect to this principle.

(*b*) The Fund, by an eighty-five percent majority of the total voting power, may adopt policies under which in exceptional circumstances the Fund, by a seventy percent majority of the total voting power, may authorize participants entering into transactions under Section 2(*b*) of this Article to agree on exchange rates other than those applicable under (*a*) above.

(*c*) The Fund shall consult a participant on the procedure for determining rates of exchange for its currency.

(*d*) For the purpose of this provision the term participant includes a terminating participant.

ARTICLE XX—SPECIAL DRAWING RIGHTS DEPARTMENT INTEREST AND CHARGES

SECTION 1. INTEREST

Interest at the same rate for all holders shall be paid by the Fund to each holder on the amount of its holdings of special drawing rights. The Fund shall pay the amount due to each holder whether or not sufficient charges are received to meet the payment of interest.

SECTION 2. CHARGES

Charges at the same rate for all participants shall be paid to the Fund by each participant on the amount of its net cumulative allo-

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cation of special drawing rights plus any negative balance of the participant or unpaid charges.

SECTION 3. RATE OF INTEREST AND CHARGES

The Fund shall determine the rate of interest by a seventy percent majority of the total voting power. The rate of charges shall be equal to the rate of interest.

SECTION 4. ASSESSMENTS

When it is decided under Article XVI, Section 2, that reimbursement shall be made, the fund shall levy assessments for this purpose at the same rate for all participants on their net cumulative allocations.

SECTION 5. PAYMENT OF INTEREST, CHARGES, AND ASSESSMENTS

Interest, charges, and assessments shall be paid in special drawing rights. A participant that needs special drawing rights to pay any charge or assessment shall be obligated and entitled to obtain them, for currency acceptable to the Fund, in a transaction with the Fund conducted through the General Resources Account. If sufficient special drawing rights cannot be obtained in this way, the participant shall be obligated and entitled to obtain them with freely useable currency from a participant which the Fund shall specify. Special drawing rights acquired by a participant after the date for payment shall be applied against its unpaid charges and cancelled.

ARTICLE XXI—ADMINISTRATION OF THE GENERAL DEPARTMENT AND THE SPECIAL DRAWING RIGHTS DEPARTMENT

(*a*) The General Department and the Special Drawing Rights Department shall be administered in accordance with the provisions of Article XII, subject to the following provisions:

(i) For meetings of or decisions by the Board of Governors on matters pertaining exclusively to the Special Drawing Rights Department only requests by or the presence and the votes of governors appointed by members that are participants shall be counted for the purpose calling meetings and determining whether a quorum exists or whether a decision is made by the required majority.

(ii) For decisions by the Executive Board on matters pertaining exclusively to the Special Drawing Rights Department only Executive directors appointed or elected by at least one member that is a participant shall be entitled to vote. Each of these Executive directors shall be entitled to cast the number of votes allotted to the member which is a participant that appointed him or to the members that are participants whose votes counted towards his election. Only the presence of Executive directors appointed or elected by members that are participants and the votes allotted to members that are participants shall be counted for the purpose of determining whether a quorum exists or whether a decision is made by the required majority. For the purposes of this provision, an agreement under Article XII, Section 3(*i*)(ii) by a member that is a participant shall entitle an appointed Executive Director to vote and cast the number of votes alloted to the member.

(iii) Questions of the general administration of the Fund, including reimbursement under Article XVI, Section 2, and any question whether a matter pertains to both Departments or exclusively to the Special Drawing Rights Department shall be decided as if they pertained exclusively to the General Department. Decisions with respect to the method of valuation of the special drawing rights, the acceptance and holding of special drawing rights in the General Resources Account of the General Department and the use of them, and other decisions affecting the operations and transactions conducted through both the General Resources Account of the General Department and the Special Drawing Rights Department shall be made by the majorities required for decisions on matters pertaining exclusively to each Department. A decision on a matter pertaining to the Special Drawing Rights Department shall so indicate.

(*b*) In addition to the privileges and immunities that are accorded under Article IX of this Agreement, no tax of any kind shall be levied on special drawing rights or on operations or transactions in special drawing rights.

(*c*) A question of interpretation of the provisions of this Agreement on matters pertaining exclusively to the Special Drawing Rights Department shall be submitted to the Executive Board pursuant to Article XXIX (a) only on the request of a participant. In any case where the Executive Board have given a decision on a question of interpretation pertaining exclusively to the Special Drawing Rights Department only a participant may require the question be referred to the Board of Governors under Article XXIX (b). The Board of Governors shall decide whether a governor appointed by a member that is not a participant shall be entitled to vote in the Committee on Interpretation on questions pertaining exclusively to the Special Drawing Rights Department.

(*d*) Whenever a disagreement arises between the Fund and a participant that has terminated its participation in the Special Drawing Rights Department or between the Fund and any participant during the liquidation of the Special Drawing Rights Department with respect to any matter arising exclusively from participation in the Special Drawing Rights Department, the disagreement shall be submitted to arbitration in accordance with the procedures in Article XXIX (c).

ARTICLE XXII—GENERAL OBLIGATIONS OF PARTICIPANTS

In addition to the obligations assumed with respect to special drawing rights under other Articles of this Agreement, each participant undertakes to collaborate with the Fund and with other participants in order to facilitate the effective functioning of the Special Drawing Rights Department and the proper use of special drawing rights in accordance with this Agreement and with the objective of making the special drawing right the principal reserve asset in the international monetary system.

ARTICLE XXIII—SUSPENSION OF OPERATIONS AND TRANSACTIONS IN SPECIAL DRAWING RIGHTS

SECTION 1. EMERGENCY PROVISIONS

In the event of an emergency or the development of unforeseen circumstances threatening the activities of the Fund with respect to the Special Drawing Rights Department, the Executive Board, by an eighty-five percent majority of the total voting power, may suspend for a period of not more than one year the operation of any of the provisions relating to operations and transactions in special drawing rights, and the provisions of Article XXVII, Section 1 (b), (c), and (d) shall then apply.

SECTION 2. FAILURE TO FULFILL OBLIGATIONS

(*a*) If the Fund finds that a participant has failed to fulfill its obligations under Article XIX, Section 4, the right of the participant to use its special drawing rights shall be suspended unless the Fund otherwise determines.

(*b*) If the Fund finds that a participant has failed to fulfill any other obligations with respect to special drawing rights, the Fund may suspend the right of the participant to use special drawing rights it acquires after the suspension.

(*c*) Regulations shall be adopted to ensure that before action is taken against any participant under (*a*) or (*b*) above, the participant shall be informed immediately of the complaint against it and given an adequate opportunity for stating its case, both orally and in writing. Whenever the participant is thus informed of a complaint relating to (*a*) above, it shall not use special drawing rights pending the disposition of the complaint.

(*d*) Suspension under (*a*) or (*b*) above or limitation under (*c*) above shall not affect a participant's obligation to provide currency in accordance with Article XIX, Section 4.

(*e*) The Fund may at any time terminate a suspension under (*a*) or (*b*) above, provided that a suspension imposed on a participant under (*b*) above for failure to fulfill the obligation under Article XIX, Section 6(*a*), shall not be terminated until one hundred eighty days after the end of the first calendar quarter during which the participant complies with the rules for reconstitution.

(*f*) The right of a participant to use its special drawing rights shall not be suspended because it has become ineligible to use the Fund's general resources under Article V, Section 5, Article VI, Section 1, or Article XXVI, Section 2(a). Article XXVI, Section 2, shall not apply because a participant has failed to fulfill any obligations with respect to special drawing rights.

ARTICLE XXIV—TERMINATION OF PARTICIPATION

SECTION 1. RIGHT TO TERMINATE PARTICIPATION

(*a*) Any participant may terminate its participation in the Special Drawing Rights Department at any time by transmitting a notice in writing to the Fund at its principal office. Termination shall be effective on the date the notice is received.

(*b*) A participant that withdraws from membership in the Fund shall be deemed to have simultaneously terminated its participation in the Special Drawing Rights Department.

SECTION 2. SETTLEMENT ON TERMINATION

(*a*) When a participant terminates its participation in the Special Drawing Rights Department all operations and transactions by the terminating participant in special drawing rights shall cease except as otherwise permitted under an agreement made pursuant to (*c*) below in order to facilitate a settlement or as provided in Sections 3, 5, and 6 of this Article or in Schedule H. Interest and charges that accrued to the date of termination and assessments levied before that date but not paid shall be paid in special drawing rights.

(*b*) The Fund shall be obligated to redeem all special drawing rights held by the terminating participant, and the terminating participant shall be obligated to pay to the Fund an amount equal to its net cumulative allocation and any other amounts that may be due and payable because of its participation in the Special Drawing Rights Department. These obligations shall be set off against each other and the amount of special drawing rights held by the terminating participant that is used in the setoff to extinguish its obligation to the Fund shall be cancelled.

(*c*) A settlement shall be made with reasonable dispatch by agreement between the terminating participant and the Fund with respect to any obligation of the terminating participant or the Fund after the setoff in (*b*) above. If agreement on a settlement is not reached promptly the provisions of Schedule H shall apply.

SECTION 3. INTEREST AND CHARGES

After the date of termination the Fund shall pay interest on any outstanding balance of special drawing rights held by a terminating participant and the terminating participant shall pay charges on any outstanding obligation owed to the Fund at the times and rates prescribed under Article XX. Payment shall be made in special drawing rights. A terminating participant shall be entitled to obtain special drawing rights with a freely usable currency to pay charges or assessments in a transaction with a participant specified by the Fund or by agreement from any other holder, or to dispose of special drawing rights received as interest in a transaction with any participant designated under Article XIX, Section 5, or by agreement with any other holder.

SECTION 4. SETTLEMENT OF OBLIGATION TO THE FUND

Currency received by the Fund from a terminating participant shall be used by the Fund to redeem special drawing rights held by participants in proportion to the amount by which each participant's holdings of special drawing rights exceed its net cumulative allocation at the time the currency is received by the Fund. Special drawing rights so redeemed and special drawing rights obtained by a terminating participant under the provisions of this Agreement to meet any installment due under an agreement on settlement or under Schedule H and set off against that installment shall be cancelled.

SECTION 5. SETTLEMENT OF OBLIGATION TO A TERMINATING PARTICIPANT

Whenever the Fund is required to redeem special drawing rights held by a terminating participant, redemption shall be made with currency provided by participants specified by the Fund. These participants shall be specified in accordance with the principles in Article XIX, Section 5. Each specified participant shall provide at its option the currency of the terminating participant or a freely usable currency to the Fund and shall receive an equivalent amount of special drawing rights. However, a terminating participant may use its special drawing rights to obtain its own currency, a freely usable currency, or any other asset from any holder, if the Fund so permits.

SECTION 6. GENERAL RESOURCES ACCOUNT TRANSACTIONS

In order to facilitate settlement with a terminating participant the Fund may decide that a terminating participant shall:

(i) use any special drawing rights held by it after the setoff in Section 2(*b*) of this Article, when they are to be redeemed, in a transaction with the Fund conducted through the General Resources Account to obtain its own currency or a freely usable currency at the option of the Fund; or

(ii) obtain special drawing rights in a transaction with the Fund conducted through the General Resources Account for a currency acceptable to the Fund to meet any charges or installment due under an agreement or the provisions of Schedule H.

ARTICLE XXV—LIQUIDATION OF THE SPECIAL DRAWING RIGHTS DEPARTMENT

(*a*) The Special Drawing Rights Department may not be liquidated except by decision of the Board of Governors. In an emergency, if the Executive Board decide the liquidation of the Special Drawing Rights Department may be necessary, it may temporarily suspend allocations or cancellations and all operations and transactions in special drawing rights pending decision by the Board of Governors. A decision by the Board of Governors to liquidate the Fund shall be a decision to liquidate both the General Department and the Special Drawing Rights Department.

(*b*) If the Board of Governors decides to liquidate the Special Drawing Rights Department, all allocations or cancellations and all operations and transactions in special drawing rights and the activities of the Fund with respect to the Special Drawing Rights Department shall cease except those incidental to the orderly discharge of the obligations of participants and of the Fund with respect to special drawing rights, and all obligations of the Fund and of participants under this Agreement with respect to special drawing rights shall cease except those set out in this Article, Article XX, Article XXI(d), Article XXIV, Article XXIX(c), and Schedule

H, or any agreement reached under Article XXIV subject to paragraph 4 of Schedule H, and Schedule I.

(*c*) Upon liquidation of the Special Drawing Rights Department, interest and charges that accrued to the date of liquidation and assessments levied before that date but not paid shall be paid in special drawing rights. The Fund shall be obligated to redeem all special drawing rights held by holders and each participant shall be obligated to pay the Fund an amount equal to its net cumulative allocation of special drawing rights and such other amounts as may be due and payable because of its participation in the Special Drawing Rights Department.

(*d*) Liquidation of the Special Drawing Rights Department shall be administered in accordance with the provisions of Schedule I.

ARTICLE XXVI—WITHDRAWAL FROM MEMBERSHIP

SECTION 1. RIGHT OF MEMBERS TO WITHDRAW

Any member may withdraw from the Fund at any time by transmitting a notice in writing to the Fund at its principal office. Withdrawal shall become effective on the date such notice is received.

SECTION 2. COMPULSORY WITHDRAWAL

(*a*) If a member fails to fulfill any of its obligations under this Agreement, the Fund may declare the member ineligible to use the resources of the Fund. Nothing in this Section shall be deemed to limit the provisions of Article V, Section 5 or Article VI, Section 1.

(*b*) If, after the expiration of a reasonable period the member persists in its failure to fulfill any of its obligations under this Agreement, that member may be required to withdraw from membership in the Fund by a decision of the Board of Governors carried by a majority of the governors having eighty-five percent of the total voting power.

(*c*) Regulations shall be adopted to ensure that before action is taken against any member under (*a*) or (*b*) above, the member shall be informed in reasonable time of the complaint against it and given an adequate opportunity for stating its case, both orally and in writing.

SECTION 3. SETTLEMENT OF ACCOUNTS WITH MEMBERS WITHDRAWING

When a member withdraws from the Fund, normal operations and transactions of the Fund in its currency shall cease and settlement of all accounts between it and the Fund shall be made with reasonable dispatch by agreement between it and the Fund. If agreement is not reached promptly, the provisions of Schedule J shall apply to the settlement of accounts.

ARTICLE XXVII—EMERGENCY PROVISIONS

SECTION 1. TEMPORARY SUSPENSION

(*a*) In the event of an emergency or the development of unforeseen circumstances threatening the activities of the Fund, the Executive Board, by an eighty-five percent majority of the total voting power, may suspend for a period of not more than one year the operation of any of the following provisions:

(i) Article V, Sections 2, 3, 7, 8(*a*)(i) and (*e*);
(ii) Article VI, Section 2;
(iii) Article XI, Section 1;
(iv) Schedule C, paragraph 5.

(*b*) A suspension of the operation of a provision under (*a*) above may not be extended beyond one year except by the Board of Governors which, by an eighty-five percent majority of the total voting power, may extend a suspension for an additional period of not more than two years if it finds that the emergency or unforeseen circumstances referred to in (*a*) above continue to exist.

(*c*) The Executive Board may, by a majority of the total voting power, terminate such suspensions at any time.

(*d*) The Fund may adopt rules with respect to the subject matter of a provision during the period in which its operation is suspended.

SECTION 2. LIQUIDATION OF THE FUND

(*a*) The Fund may not be liquidated except by decision of the Board of Governors. In an emergency, if the Executive Board decide that liquidation of the Fund may be necessary, it may temporarily suspend all operations and transactions, pending decision by the Board of Governors.

(*b*) If the Board of Governors decides to liquidate the Fund, the Fund shall forthwith cease to engage in any activities except those incidental to the orderly collection and liquidation of its assets and the settlement of its liabilities, and all obligations of members under this Agreement shall cease except those set out in this Article, in Article XXIX(c), in Schedule J, paragraph 7 and in Schedule K.

(*c*) Liquidation shall be administered in accordance with the provisions of Schedule K.

ARTICLE XXVIII—AMENDMENTS

(*a*) Any proposal to introduce modifications in this Agreement, whether emanating from a member, a governor or the Executive Board shall be communicated to the Chairman of the Board of Governors who shall bring the proposal before the Board of Governors. If the proposed amendment is approved by the Board of Governors the Fund shall, by circular letter or telegram, ask all members whether they accept the proposed amendment. When three fifths of the members, having eighty-five percent of the total voting power, have accepted the proposed amendment, the Fund shall certify the fact by a formal communication addressed to all members.

(*b*) Notwithstanding (*a*) above, acceptance by all members is required in the case of any amendment modifying

(i) the right to withdraw from the fund (Article XXVI, Section 1);

(ii) the provision that no change in a member's quota shall be made without its consent (Article III, Section 2(*d*));

(iii) the provision that no change may be made in the par value of a member's currency except on the proposal of that member (Schedule C, paragraph 6).

(*c*) Amendments shall enter into force for all members three months after the date of the formal communication unless a shorter period is specified in the circular letter or telegram.

ARTICLE XXIX—INTERPRETATION

(*a*) Any question of interpretation of the provisions of this Agreement arising between any member and the Fund or between any members of the Fund shall be submitted to the Executive Board for its decision. If the question particularly affects any member not entitled to appoint an executive director it shall be entitled to representation in accordance with Article XII, Section 3(*j*).

(*b*) In any case where the Executive Board has given a decision under (*a*) above, any member may require, within three months from the date of the decision, that the question be referred to the Board of Governors, whose decision shall be final. Any question referred to the Board of Governors shall be considered by a Committee on Interpretation of the Board of Governors. Each Committee member shall have one vote. The Board of Governors shall establish the membership, procedures, and voting majorities of the committee. A decision of the Committee shall be the decision of the Board of Governors unless the Board by an eighty-five percent majority of the total voting power decides otherwise. Pending the result of the reference to the Board of Governors the Fund may, so far as it deems necessary, act on the basis of the decision of the Executive Board.

(*c*) Whenever a disagreement arises between the Fund and a member which has withdrawn, or between the Fund and any member during liquidation of the Fund, such disagreement shall be submitted to arbitration by a tribunal of three arbitrators, one appointed by the Fund, another by the member or withdrawing member and an umpire who, unless the parties otherwise agree, shall be appointed by the President of the Permanent Court of International Justice or such other authority as may have been prescribed by regulation adopted by the Fund. The umpire shall have full power to settle all questions of procedure in any case where the parties are in disagreement with respect thereto.

ARTICLE XXX—EXPLANATION OF TERMS

In interpreting the provisions of this Agreement the Fund and its members shall be guided by the following provisions:

(*a*) The Fund's holdings of a member's currency in the General Resources Account shall include any securities accepted by the Fund under Article III, Section 4.

(*b*) Stand-by arrangement means a decision of the Fund by which a member is assured that it will be able to make purchase from the General Resources Account in accordance with the terms of the decision during a specified period and up to a specified amount.

(*c*) Reserve tranche purchase means a purchase by a member of special drawing rights or the currency of another member in exchange for its own currency which does not cause the Fund's holdings of the member's currency in the General Resources Account to exceed its quota, provided that for the purposes of this definition the Fund may exclude purchases and holdings under:

(i) Policies on the use of its general resources for compensatory financing of export fluctuations;

(ii) Policies on the use of its general resources in connection with the financing of contributions to international buffer stocks of primary products; and

(iii) Other policies on the use of its general resources in respect of which the Fund decides, by an eighty-five percent majority of the total voting power, that an exclusion shall be made.

(*d*) Payments for current transactions means payment which are not for the purpose of transferring capital, and includes, without limitation:

(1) All payments due in connection with foreign trade, other current business, including services, and normal short-term banking and credit facilities;

(2) Payments due as interest on loans and as net income from other investments;

(3) Payments of moderate amount for amortization of loans or for depreciation of direct investments; and

(4) Moderate remittance for family living expenses.

The Fund may, after consultation with the members concerned, determine whether certain specific transactions are to be considered current transactions or capital transactions.

(*e*) Net cumulative allocation of special drawing rights means the total amount of special drawing rights allocated to a participant less its share of special drawing rights that have been cancelled under Article XVIII, Section 2(*a*).

(*f*) A freely usable currency means a member's currency that the Fund determines (i) is, in fact, widely used to make payments for international transactions, and (ii) is widely traded in the principal exchange markets.

(*g*) Members that were members on August 31, 1975 shall be deemed to include a member that accepted membership after that date pursuant to a resolution of the Board of Governors adopted before that date.

(*h*) Transactions of the Fund means exchanges of monetary assets by the Fund for other monetary assets. Operations of the Fund means other uses or receipts of monetary assets by the Fund.

(*i*) Transactions in special drawing rights means exchanges of special drawing rights for other monetary assets. Operations in special drawing rights means other uses of special drawing rights.

ARTICLE XXXI—FINAL PROVISIONS

SECTION 1. ENTRY INTO FORCE

This Agreement shall enter into force when it has been signed on behalf of governments having sixty-five percent of the total of the quotas set forth in Schedule A and when the instruments referred to in Section 2(*a*) of this Article have been deposited on their behalf, but in no event shall this Agreement enter into force before May 1, 1945.

SECTION 2. SIGNATURE

(*a*) Each government on whose behalf this Agreement is signed shall deposit with the Government of the United States of America an instrument setting forth that it has accepted this Agreement in accordance with its law and has taken all steps necessary to enable it to carry out all of its obligations under this Agreement.

(*b*) Each government shall become a member of the Fund as from the date of the deposit on its behalf of the instrument referred to in (*a*) above, except that no country shall become a member before this Agreement enters into force under Section 1 of this Article.

(*c*) The Government of the United States of America shall inform the governments of all countries whose names are set forth in Schedule A, and the governments of all countries whose membership is approved in accordance with Article II, Section 2, of all signatures of this Agreement and of the deposit of all instruments referred to in (*a*) above.

(*d*) At the time this Agreement is signed on its behalf, each government shall transmit to the Government of the United States of America one one-hundredth of one percent of its total subscription in gold or United States dollars for the purpose of meeting administrative expenses of the Fund. The Government of the United States of America shall hold such funds in a special deposit account and shall transmit them to the Board of Governors of the Fund when the initial meeting has been called. If this Agreement has not come into force by December 31, 1945, the Government of the United States of America shall return such funds to the governments that transmitted them.

(*e*) This Agreement shall remain open for signatures at Washington on behalf of the governments of the countries whose names are set forth in Schedule A until December 31, 1945.

(*f*) After December 31, 1945, this Agreement shall be open for signature on behalf of the government of any country whose membership has been approved in accordance with Article II, Section 2.

(*g*) By their signature of this Agreement, all governments accept it both on their own behalf and in respect of all their colonies, overseas territories, all territories under their protection, suzerainty, or authority, and all territories in respect of which they exercise a mandate.

(*h*) Subsection (*d*) above shall come into force with regard to each signatory government as from the date of its signature.

[The signature and depository clause reproduced below followed the text of Article XX in the original Articles of Agreement]

Done at Washington, in a single copy which shall remain deposited in the archives of the Government of the United States of America, which shall transmit certified copies to all governments whose names are set forth in Schedule A and to all governments whose membership is approved in accordance with Article II, Section 2.

SCHEDULE A—QUOTAS [1]

[In millions of U.S. dollars]

Country	Quota
Australia	200
Belgium	225
Bolivia	10
Brazil	150
Canada	300
Chile	50
China	550
Colombia	50
Costa Rica	5
Cuba	50
Czechoslovakia	125
Denmark	([2])
Dominican Republic	5
Ecuador	5
Egypt	45
El Salvador	2.5
Ethiopia	6
France	450
Greece	40
Guatemala	5
Haiti	5
Honduras	2.5
Iceland	1
India	400
Iran	25
Iraq	8
Liberia	.5
Luxembourg	10
Mexico	90
Netherlands	275
New Zealand	50
Nicaragua	2
Norway	50
Panama	.5
Paraguay	2
Peru	25
Philippine Commonwealth	15
Poland	125
Union of South Africa	100
Union of Soviet Socialist Republics	1,200
United Kingdom	1,300
United States	2,750
Uruguay	15
Venezuela	15
Yugoslavia	60

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[1] Subsequent changes in membership and quotas are not reflected in Schedule A above.

[2] The quota of Denmark shall be determined by the Fund after the Danish Government has declared its readiness to sign this Agreement but before signature takes place.

SCHEDULE B—TRANSITIONAL PROVISIONS WITH RESPECT TO REPURCHASE, PAYMENT OF ADDITIONAL SUBSCRIPTIONS, GOLD, AND CERTAIN OPERATIONAL MATTERS

1. Repurchase obligations that have accrued pursuant to Article V, Section 7(*b*) before the date of the second amendment of this agreement and that remain undischarged at that date shall be discharged not later than the date or dates at which the obligations had to be discharged in accordance with the provisions of this Agreement before the second amendment.

2. A member shall discharge with special drawing rights any obligation to pay gold to the Fund in repurchase or as a subscription that is outstanding at the date of the second amendment of this Agreement, but the Fund may prescribe that these payments may be made in whole or in part in the currencies of other members specified by the Fund. A non-participant shall discharge an obligation that must be paid in special drawing rights pursuant to this provision with the currencies of other members specified by the Fund.

3. For the purposes of 2 above 0.888 671 gram of fine gold shall be equivalent to one special drawing right, and the amount of currency payable under 2 above shall be determined on that basis and on the basis of the value of the currency in terms of the special drawing right at the date of discharge.

4. A member's currency held by the Fund in excess of seventy-five percent of the member's quota at the date of the second amendment of this Agreement and not subject to repurchase under 1 above shall be repurchased in accordance with the following rules:

(i) Holdings that resulted from a purchase shall be repurchased in accordance with the policy on the use of the Fund's general resources under which the purchase was made.

(ii) Other holdings shall be repurchased not later than four years after the date of the second amendment of this Agreement.

5. Repurchases under 1 above that are not subject to 2 above, repurchases under 4 above, and any specification of currencies under 2 above shall be in accordance with Article V, Section 7(i).

6. All rules and regulations, rates, procedures, and decisions in effect at the date of the second amendment of this Agreement shall remain in effect until they are changed in accordance with the provisions of this Agreement.

7. To the extent that arrangements equivalent in effect to (*a*) and (*b*) below have not been completed before the date of the second amendment of this Agreement, the Fund shall

(*a*) sell up to 25 million ounces of fine gold held by it on August 31, 1975 to those members that were members on that date and that agree to buy it, in proportion to their quotas on that date. The sale to a member under this subparagraph (*a*) shall be made in exchange for its currency and at a price equivalent at the time of sale to one special drawing right per 0.888 671 gram of fine gold, and

(*b*) Sell up to 25 million ounces of fine gold held by it on August 31, 1975 for the benefit of developing members that were members on that date, provided, however, that the part of any profits or surplus value of the gold that corresponds to the proportion of such a member's quota on August 31, 1975 to the total of the quotas of all members on that date shall be transferred directly to each such member. The requirements under Article V, Section 12(*c*) that the Fund consult a member, obtain a member's concurrence, or exchange a member's currency for the currencies of other members in certain circumstances shall apply with respect to currency received by the Fund as a result of sales of gold under this provision, other than sales to a member in return for its own currency, and placed in the General Resources Account.

Upon the sale of gold under this paragraph 7, an amount of the proceeds in the currencies received equivalent at the time of sale to one special drawing right per 0.888 671 gram of fine gold shall be placed in the General Resources Account and other assets held by the Fund under arrangements pursuant to (*b*) above shall be held separately from the general resources of the Fund. Assets that remain subject to disposition by the Fund upon termination of arrangements pursuant to (*b*) above shall be transferred to the Special Disbursement Account.

SCHEDULE C—PAR VALUES

1. The Fund shall notify members that par values may be established for the purpose of this Agreement, in accordance with Article IV, Sections 1, 3, 4, and 5 and this Schedule, in terms of the special drawing right, or in terms of such other common denomina-

tor as is prescribed by the Fund. The common denominator shall not be gold or a currency.

2. A member that intends to establish a par value for its currency shall propose a par value to the Fund within a reasonable time after notice is given under 1 above.

3. Any member that does not intend to establish a par value for its currency under 1 above shall consult with the Fund and ensure that its exchange arrangements are consistent with the purposes of the Fund and are adequate to fulfill its obligations under Article IV, Section 1.

4. The Fund shall concur in or object to a proposed par value within a reasonable period after receipt of the proposal. A proposed par value shall not take effect for the purposes of this Agreement if the Fund objects to it, and the member shall be subject to 3 above. The Fund shall not object because of the domestic social or political policies of the member proposing the par value.

5. Each member that has a par value for its currency undertakes to apply appropriate measures consistent with this Agreement in order to ensure that the maximum and the minimum rates for spot exchange transactions taking place within its territories between its currency and the currencies of other members maintaining par values shall not differ from parity by more than four and one-half percent or by such other margin or margins as the Fund may adopt by an eighty-five percent majority of the total voting power.

6. A member shall not propose a change in the par value of its currency except to correct, or prevent the emergence of, a fundamental disequilibrium. A change may be made only on the proposal of the member and only after consultation with the Fund.

7. When a change is proposed, the Fund shall concur in or object to the proposed par value within a reasonable period after receipt of the proposal. The Fund shall concur if it is satisfied that the change is necessary to correct, or prevent the emergence of, a fundamental disequilibrium. The Fund shall not object because of the domestic social or political policies of the member proposing the change. A proposed change in par value shall not take effect for the purposes of this Agreement if the Fund objects to it. If a member changes the par value of its currency despite the objection of the Fund, the member shall be subject to Article XXVI, Section 2. Maintenance of an unrealistic par value by a member shall be discouraged by the Fund.

8. The par value of a member's currency established under this Agreement shall cease to exist for the purposes of this Agreement if the member informs the Fund that it intends to terminate the par value. The Fund may object to the termination of a par value by a decision taken by an eighty-five percent majority of the total voting power. If a member terminates a par value for its currency despite the objection of the Fund, the member shall be subject to Article XXVI, Section 2. A par value established under this Agreement shall cease to exist for the purposes of this Agreement if the member terminates the par value despite the objection of the Fund, or if the Fund finds that the member does not maintain rates for a substantial volume of exchange transactions in accordance with 5 above, provided that the Fund may not make such finding unless it has consulted the member and given it sixty days

notice of the Fund's intention to consider whether to make a finding.

9. If the par value of the currency of a member has ceased to exist under 8 above, the member shall consult with the Fund and ensure that its exchange arrangements are consistent with the purposes of the Fund and are adequate to fulfill its obligations under Article IV, Section 1.

10. A member for whose currency the par value has ceased to exist under 8 above may, at any time, propose a new par value for its currency.

11. Notwithstanding 6 above, the Fund, by a seventy percent majority of the total voting power, may make uniform proportionate changes in all par values if the special drawing right is the common denominator and the changes will not affect the value of the special drawing right. The par value of a member's currency shall, however, not be changed under this provision if, within seven days after the Fund's action, the member informs the Fund that it does not wish the par value of its currency to be changed by such action.

SCHEDULE D—COUNCIL

1. (*a*) Each member that appoints an Executive Director and each group of members that has the number of votes allotted to them cast by an elected Executive Director shall appoint to the Council one Councillor, who shall be a Governor, Minister in the government of a member, or person of comparable rank, and may appoint not more than seven Associates. The Board of Governors may change, by an eighty-five percent majority of the total voting power, the number of Associates who may be appointed. A Councillor or Associate shall serve until a new appointment is made or until the next regular election of Executive Directors, whichever shall occur sooner.

(*b*) Executive Directors, or in their absence their Alternates, and Associates shall be entitled to attend meetings of the Council, unless the Council decides to hold a restricted session. Each member and each group of members that appoints a Councillor shall appoint an Alternate who shall be entitled to attend a meeting of the Council when the Councillor is not present, and shall have full power to act for the Councillor.

2. (*a*) The Council shall supervise the management and adaptation of the international monetary system, including the continuing operation of the adjustment process and developments in global liquidity, and in this connection shall review developments in the transfer of real resources to developing countries.

(*b*) The Council shall consider proposals pursuant to Article XXVIII(a) to amend the Articles of Agreement.

3. (*a*) The Board of Governors may delegate to the Council authority to exercise any powers of the Board of Governors except the powers conferred directly by this Agreement on the Board of Governors.

(*b*) Each Councillor shall be entitled to cast the number of votes allotted under Article XII, Section 5 to the member or group of members appointing him. A Councillor appointed by a group of members may cast separately the votes allotted to each member in the group. If the number of votes allotted to a member cannot be cast by an Executive Director, the member may make arrangements with a Councillor for casting the number of votes allotted to the member.

(*c*) The Council shall not take any action pursuant to powers delegated by the Board of Governors that is inconsistent with any action taken by the Board of Governors and the Executive Board shall not take any action pursuant to powers delegated by the Board of Governors that is inconsistent with any action taken by either the Board of Governors or the Council.

4. The Council shall select a Councillor as chairman, shall adopt regulations as may be necessary or appropriate to perform its functions, and shall determine any aspect of its procedure. The Council shall hold such meetings as may be provided for by the Council or called by the Executive Board.

5. (*a*) The Council shall have powers corresponding to those of the Executive Board under the following provisions: Article XII, Section 2 (*c*), (*f*), (*g*), and (*j*); Article XVIII, Section 4(*a*) and Section 4(*c*)(iv); Article XXIII, Section 1; and Article XXVII, Section 1(*a*).

(*b*) For decisions by the Council on matters pertaining exclusively to the Special Drawing Rights Department only Councillors appointed by a member that is a participant or a group of members at least one member of which is a participant shall be entitled to vote. Each of these Councillors shall be entitled to cast the number of votes allotted to the member which is a participant that appointed him or to the members that are participants in the group of members that appointed him, and may cast the votes allotted to a participant with which arrangements have been made pursuant to the last sentence of 3(*b*) above.

(*c*) The Council may by regulation establish a procedure whereby the Executive Board may obtain a vote of the Councillors on a specific question without a meeting of the Council when in the judgment of the Executive Board an action must be taken by the Council which should not be postponed until the next meeting of the Council and which does not warrant the calling of a special meeting.

(*d*) Article IX, Section 8 shall apply to Councillors, their Alternates, and Associates, and to any other person entitled to attend a meeting of the Council.

(*e*) For the purposes of (*b*) and 3(*b*) above, an agreement under Article XII, Section 3(*i*)(ii) by a member, or by a member that is a participant, shall entitle a Councillor to vote and cast the number of votes allotted to the member.

6. The first sentence of Article XII, Section 2(*a*) shall be deemed to include a reference to the Council.

SCHEDULE E—ELECTION OF EXECUTIVE DIRECTORS

1. The election of the elective Executive Directors shall be by ballot of the governors eligible to vote.

2. In balloting for the Executive Directors to be elected, each of the governors eligible to vote shall cast for one person all of the votes to which he is entitled under Article XII, Section 5(*a*). The

fifteen persons receiving the greatest number of votes shall be Executive Directors, provided that no person who received less than four percent of the total number of votes that can be cast (eligible votes) shall be considered elected.

3. When fifteen persons are not elected in the first ballot, a second ballot shall be held in which there shall vote only (*a*) those governors who voted in the first ballot for a person not elected, and (*b*) those governors whose votes for a person elected are deemed under 4 below to have raised the votes cast for that person above nine percent of the eligible votes. If in the second ballot there are more candidates than the numbers of Executive Directors to be elected, the person who received the lowest number of votes in the first ballot shall be ineligible for election.

4. In determining whether the votes cast by a governor are to be deemed to have raised the total of any person above nine percent of the eligible votes the nine percent shall be deemed to include, first, the votes of the governor casting the largest number of votes for such person, then the votes of the governor casting the next largest number, and so on until nine percent is reached.

5. Any governor part of whose votes must be counted in order to raise the total of any person above four percent shall be considered as casting all of his votes for such person even if the total votes for such person thereby exceeded nine percent.

6. If, after the second ballot, fifteen persons have not been elected, further ballots shall be held on the same principles until fifteen persons have been elected, provided that after fourteen persons are elected, the fifteenth may be elected by a simple majority of the remaining votes and shall be deemed to have been elected by all such votes.

SCHEDULE F—DESIGNATION

During the first basic period the rules for designation shall be as follows:

(*a*) Participants subject to designation under Article XIX, Section 5(*a*)(i), shall be designated for such amounts as will promote over time equality in the ratios of the participants' holdings of special drawing rights in excess of their net cumulative allocations to their official holdings of gold and foreign exchange.

(*b*) The formula to give effect to (*a*) above shall be such that participants subject to designation shall be designated:

(i) in proportion to their official holdings of gold and foreign exchange when the ratios described in (*a*) above are equal; and

(ii) in such manner as gradually to reduce the difference between the ratios described in (*a*) above that are low and the ratios that are high.

SCHEDULE G—RECONSTITUTION

1. During the first basic period the rules for reconstitution shall be as follows:

(*a*)(i) A participant shall so use and reconstitute its holdings of special drawing rights that, five years after the first allocation and at the end of each calendar quarter thereafter, the average of its total daily holdings of special drawing rights over the most recent five-year period will be not less than thirty percent of the average of its daily net cumulative allocation of special drawing rights over the same period.

(ii) Two years after the first allocation and at the end of each calendar month thereafter the Fund shall make calculations for each participant so as to ascertain whether and to what extent the participant would need to acquire special drawing rights between the date of the calculation and the end of any five-year period in order to comply with the requirement in (*a*)(i) above. The Fund shall adopt regulations with respect to the bases on which these calculations shall be made and with respect to the timing of the designation of participants under Article XIX, Section 5 (*a*)(ii), in order to assist them to comply with the requirement in (*a*)(i) above.

(iii) The Fund shall give special notice to a participant when the calculations under (*a*)(ii) above indicate that it is unlikely that the participant will be able to comply with the requirement in (*a*)(i) above unless it ceases to use special drawing rights for the rest of the period for which the calculation was made under (*a*)(ii) above.

(iv) A participant that needs to acquire special drawing rights to fulfill this obligation shall be obligated and entitled to obtain them, for currency acceptable to the Fund, in a transaction with the Fund conducted through the General Resources Account. If sufficient special drawing rights to fulfill this obligation cannot be obtained in this way, the participant shall be obligated and entitled to obtain them with a freely usable currency from a participant which the Fund shall specify.

(*b*) Participants shall also pay due regard to the desirability of pursuing over time a balanced relationship between their holdings of special drawing rights and their other reserves.

2. If a participant fails to comply with the rules for reconstitution, the Fund shall determine whether or not the circumstances justify suspension under Article XXIII, Section 2(*b*).

Schedule H—Termination of Participation

1. If the obligation remaining after the setoff under Article XXIV, Section 2(*b*), is to the terminating participant and agreement on settlement between the Fund and terminating participant is not reached within six months of the date of termination, the Fund shall redeem this balance of special drawing rights in equal half-yearly installments within a maximum of five years of the date of termination. The Fund shall redeem this balance as it may determine, either (*a*) by the payment to the terminating participant of the amounts provided by the remaining participants to the Fund in accordance with Article XXIV, Section 5, or (*b*) by permitting the terminating participant to use its special drawing rights to obtain its own currency or a freely usable currency from a participant specified by the Fund, the General Resources Account, or any other holder.

2. If the obligation remaining after the setoff under Article XXIV, Section 2(*b*), is to the Fund and agreement on settlement is not reached within six months of the date of termination, the terminating participant shall discharge this obligation in equal half-year installments within three years of the date of termination or within such longer period as may be fixed by the Fund. The terminating participant shall discharge his obligation, as the Fund may determine, either (*a*) by the payment to the Fund of a freely usable currency or (*b*) by obtaining special drawing rights, in accordance with Article XXIV, Section 6, from the General Resources Account or in agreement with a participant specified by the Fund or from any other holder, and the setoff of these special drawing rights against the installment due.

3. Installments under either 1 or 2 above shall fall due six months after the date of termination and at intervals of six months thereafter.

4. In the event of the Special Drawing Rights Department going into liquidation under Article XXV within six months of the date a participant terminates its participation, the settlement between the Fund and that government shall be made in accordance with Article XXV and Schedule I.

SCHEDULE I—ADMINISTRATION OF LIQUIDATION OF THE SPECIAL DRAWING RIGHTS DEPARTMENT

1. In the event of liquidation of the Special Drawing Rights Department, participants shall discharge their obligations to the Fund in ten half-yearly installments, or in such longer period as the Fund may decide is needed, in a freely usable currency and the currencies of participants holding special drawing rights to be redeemed in any installment to the extent of such redemption, as determined by the Fund. The first half-yearly payment shall be made six months after the decision to liquidate the Special Drawing Rights Department.

2. If it is decided to liquidate the Fund within six months of the date of the decision to liquidate the Special Drawing Rights Department, the liquidation of the Special Drawing Rights Department shall not proceed until special drawing rights held in the General Resources Account have been distributed in accordance with the following rule:

> After the distribution made under 2 (*a*) and (*b*) of Schedule K, the Fund shall apportion its special drawing rights held in the General Resources Account among all members that are participants in proportion to the amounts due to each participant after the distributions under 2(*b*). To determine the amount due to each member for the purpose of apportioning the remainder of its holdings of each currency under 2(*d*) of Schedule K, the Fund shall deduct the distribution of special drawing rights made under this rule.

3. With the amounts received under 1 above, the Fund shall redeem special drawing rights held by holders in the following manner and order:

(*a*) Special drawing rights held by governments that have terminated their participation more than six months before the date of the Board of Governors decides to liquidate the Special Drawing Rights Department shall be redeemed in accordance with the terms of any government under Article XXIV or Schedule H.

(*b*) Special drawing rights held by holders that are not participants shall be redeemed before those held by participants, and shall be redeemed in proportion to the amount held by each holder.

(*c*) The Fund shall determine the proportion of special drawing rights held by each participant in relation to its net cumulative allocation. The Fund shall first redeem special drawing rights from the participants with the highest proportion until this proportion is reduced to that of the second highest proportion; the Fund shall then redeem the special drawing rights held by these participants in accordance with their net cumulative allocations until the proportions are reduced to that of the third highest proportion; and this process shall be continued until the amount available for redemption is exhausted.

4. Any amount that a participant will be entitled to receive in redemption under 3 above shall be set off against any amount to be paid under 1 above.

5. During liquidation the Fund shall pay interest on the amount of special drawing rights held by holders, and each participant shall pay charges on the net cumulative allocation of special drawing rights to it less the amount of any payments made in accordance with 1 above. The rates of interest and charges and the time of payment shall be determined by the Fund. Payments of interest and charges shall be made in special drawing rights to the extent possible. A participant that does not hold sufficient special drawing rights to meet any charges shall make the payment with a currency specified by the Fund. Special drawing rights received as charges in amounts needed for administrative expenses shall not be used for the payment of interest, but shall be transferred to the Fund and shall be redeemed first and with the currencies used by the Fund to meet its expenses.

6. While a participant is in default with respect to any payment required by 1 or 5 above, no amounts shall be paid to it in accordance with 3 or 5 above.

7. If after the final payments have been made to participants each participant not in default does not hold special drawing rights in the same proportion to its net cumulative allocation, those participants holding a lower proportion shall purchase from those holding a higher proportion such amounts in accordance with arrangements made by the Fund as will make the proportion of their holdings of special drawing rights the same. Each participant in default shall pay to the Fund its own currency in an amount equal to its default. The Fund shall apportion this currency and any residual claims among participants in proportion to the amount of special drawing rights held by each and these special drawing rights shall be canceled. The Fund shall then close the books of the Special Drawing Rights Department and all of the Fund's liabilities arising from the allocations of special drawing rights and the administration of the Special Drawing Rights Department shall cease.

8. Each participant whose currency is distributed to other participants under this Schedule guarantees the unrestricted use of such currency at all times for the purchase of goods or for payments of sums due to it or to persons in its territories. Each participant so obligated agrees to compensate other participants for any loss resulting from the difference between the value at which the Fund distributed its currency under this Schedule and the value realized by such participants on disposal of its currency.

SCHEDULE J—SETTLEMENT OF ACCOUNTS WITH MEMBERS WITHDRAWING

1. The settlement of accounts with respect to the General Resources Account shall be made according to 1 to 6 of this Schedule. The Fund shall be obligated to pay to a member withdrawing an amount equal to its quota, plus any other amounts due to it from the Fund, less any amounts due to the Fund, including charges accruing after the date of its withdrawal; but no payment shall be made until six months after the date of withdrawal. Payments shall be made in the currency of the withdrawing member, and for this purpose the Fund may transfer to the General Resources Account holdings of the member's currency in the Special Disbursement Account or in the Investment Account in exchange for an equivalent amount of the currencies of other members in the General Resources Account selected by the Fund with their concurrence.

2. If the Fund's holdings of the currency of the withdrawing member are not sufficient to pay the net amount due from the Fund, the balance shall be paid in a freely usuable currency, or in such other manner as may be agreed. If the Fund and the withdrawing member do not reach agreement within six months of the date of withdrawal, the currency in question held by the Fund shall be paid forthwith to the withdrawing member. Any balance due shall be paid in ten half-yearly installments during the ensuing five years. Each such installment shall be paid, at the option of the Fund, either in the currency of the withdrawing member acquired after its withdrawal or in a freely usuable currency.

3. If the Fund fails to meet any installment which is due in accordance with the preceding paragraphs, the withdrawing member shall be entitled to require the Fund to pay the installment in any currency held by the Fund with the exception of any currency which has been declared scarce under Article VII, Section 3.

4. If the Fund's holdings of the currency of a withdrawing member exceed the amount due to it, and if agreement on the method of settling accounts is not reached within six months of the date of withdrawal, the former member shall be obligated to redeem such excess currency in a freely usuable currency. Redemption shall be made at the rates at which the Fund would sell such currencies at the time of withdrawal from the Fund. The withdrawing member shall complete redemption within five years of the date of withdrawal or within such longer period as may be fixed by the Fund, but shall not be required to redeem in any half-yearly period more than one-tenth of the Fund's excess holdings of its currency at the date of withdrawal plus further acquisitions of

the currency during such half-yearly period. If the withdrawing member does not fulfill this obligation the Fund may in an orderly manner liquidate in any market the amount of currency which should have been redeemed.

5. Any member desiring to obtain the currency of a member which has withdrawn shall acquire it by purchase from the Fund, to the extent that such member has access to the general resources of the Fund and that such currency is available under 4 above.

6. The withdrawing member guarantees the unrestricted use at all times of the currency disposed of under 4 and 5 above for the purchase of goods or for payment of sums due to it or to persons within its territories. It shall compensate the Fund for any loss resulting from the difference between the value of its currency in terms of the special drawing right on the date of withdrawal and the value realized in terms of the special drawing right by the Fund on disposal under 4 and 5 above.

7. If the withdrawing member is indebted to the Fund as the result of transactions conducted through the Special Disbursement Account under Article V, Section 12(*f*)(ii), the indebtedness shall be discharged in accordance with the terms of the indebtedness.

8. If the Fund holds the withdrawing member's currency in the Special Disbursement Account or in the Investment Account, the Fund may in an orderly manner exchange in any market for the currencies of members the amount of the currency of the withdrawing member remaining in each account after use under 1 above, and the proceeds of the exchange of the amount in each account shall be kept in that account. Paragraph 5 above and the first sentence of 6 above shall apply to the withdrawing member's currency.

9. If the Fund holds obligations of the withdrawing member in the Special Disbursement Account pursuant to Article V, Section 12(*h*), or in the Investment Account, the Fund may hold them until the date of maturity or dispose of them sooner. Paragraph 8 above shall apply to the proceeds of such disinvestment.

10. In the event of the Fund going into liquidation under Article XXVII, Section 2, within six months of the date on which the member withdraws, the account between the Fund and that government shall be settled in accordance with Article XXVII, Section 2, and Schedule K.

SCHEDULE K—ADMINISTRATION OF LIQUIDATION

1. In the event of liquidation the liabilities of the Fund other than the repayment of subscriptions shall have priority in the distribution of the assets of the Fund. In meeting each such liability the Fund shall use its assets in the following order.

(*a*) the currency in which the liability is payable;

(*b*) gold;

(*c*) all other currencies in proportion so far as may be practicable, to the quotas of the members.

2. After the discharge of the Fund's liabilities in accordance with 1 above, the balance of the Fund's assets shall be distributed and apportioned as follows:

(*a*)(i) The Fund shall calculate the value of gold held on August 31, 1975 that it continues to hold on the date of the decision to liquidate. The calculation shall be made in accordance with 9 below and also on the basis of one special drawing right per 0.888 671 gram of fine gold on the date of liquidation. Gold equivalent to the excess of the former value over the latter shall be distributed to those members that were members on August 31, 1975 in proportion to their quotas on that date.

(ii) The Fund shall distribute any assets held in the Special Disbursement Account on the date of the decision to liquidate to those members that were members on August 31, 1975 in proportion to their quotas on that date. Each type of asset shall be distributed proportionately to members.

(*b*) The Fund shall distribute its remaining holdings of gold among the members whose currencies are held by the Fund in amounts less than their quotas in the proportions, but not in excess of, the amounts by which their quotas exceed the Fund's holdings of their currencies.

(*c*) The Fund shall distribute to each member one-half the Fund's holdings of its currency but such distribution shall not exceed fifty percent of its quota.

(*d*) The Fund shall apportion the remainder of its holdings of gold and each currency.

(i) Among all the members in proportion to, but not in excess of, the amounts due to each member after the distributions under (*b*) and (*c*) above, provided that distribution under 2(*a*) above shall not be taken into account for determining the amounts due, and

(ii) Any excess holdings of gold and currency among all the members in proportion to their quotas.

3. Each member shall redeem the holdings of its currency apportioned to other members under 2(*d*) above, and shall agree with the Fund within three months after a decision to liquidate upon an orderly procedure for such redemption.

4. If a member has not reached agreement with the Fund within the three-month period referred to in 3 above, the Fund shall use the currencies of other members apportioned to that member under 2(*d*) above to redeem the currency of that member apportioned to other members. Each currency apportioned to a member which has not reached agreement shall be used, so far as possible, to redeem its currency apportioned to the members which have made agreements with the Fund under 3 above.

5. If a member has reached agreement with the Fund in accordance with 3 above, the Fund shall use the currencies of other members apportioned to that member under 2(*d*) above to redeem the currency of that member apportioned to other members which have made agreements with the Fund under 3 above. Each amount so redeemed shall be redeemed in the currency of the member to which it was apportioned.

6. After carrying out the steps in the preceding paragraphs, the Fund shall pay to each member the remaining currencies held for its account.

7. Each member whose currency has been distributed to other members under 6 above shall redeem such currency in the cur-

rency of the member requesting redemption, or in such other manner as may be agreed between them. If the members involved do not otherwise agree, the member obligated to redeem shall complete redemption within five years of the date of distribution, but shall not be required to redeem in any half-year period more than one-tenth of the amount distributed to each other member. If the member does not fulfill this obligation, the amount of currency which should have been redeemed may be liquidated in an orderly manner in any market.

8. Each member whose currency has been distributed to other members under 6 above guarantees the unrestricted use of such currency at all times for the purchase of goods or for payment of sums due to it or to persons in its territories. Each member so obligated agrees to compensate other members for any loss resulting from the difference between the value of its currency in terms of the special drawing right on the date of the decision to liquidate the Fund and the value in terms of the special drawing right realized by such members on disposal of its currency.

9. The Fund shall determine the value of gold under this Schedule on the basis of prices in the market.

10. For the purposes of this Schedule, quotas shall be deemed to have been increased to the full extent to which they could have been increased in accordance with Article III, Section 2(*b*) of this Agreement.

b. Text of the Decision of the Executive Directors of the International Monetary Fund, January 5, 1962

INTERNATIONAL MONETARY FUND

Executive Board Decision No. 1289-(62/1).
Subject: General Arrangements To Borrow.

Preamble

In order to enable the International Monetary Fund to fulfill more effectively its role in the international monetary system in the new conditions of widespread convertibility, including greater freedom for short-term capital movements, the main industrial countries have agreed that they will, in a spirit of broad and willing cooperation, strengthen the Fund by general arrangements under which they will stand ready to lend their currencies to the Fund up to specified amounts under Article VII, Section 2 of the Articles of Agreement when supplementary resources are needed to forestall or cope with an impairment of the international monetary system in the aforesaid conditions. In order to give effect to these intentions, the following terms and conditions are adopted under Article VII, Section 2 of the Articles of Agreement.

Paragraph 1. Definitions

As used in this Decision the term:

(i) "Articles" means the Articles of Agreement of the International Monetary Fund;

(ii) "credit arrangement" means an undertaking to lend to the Fund on the terms and conditions of this Decision;

(iii) "participant" means a participating member of a participating institution;

(iv) "participating institution" means an official institution of a member that has entered into a credit arrangement with the Fund with the consent of the member;

(v) "participating member" means a member of the Fund that has entered into a credit arrangement with the Fund;

(vi) "amount of a credit arrangement" means the maximum amount expressed in units of its currency that a participant undertakes to lend to the Fund under a credit arrangement;

(vii) "call" means a notice by the Fund to a participant to make a transfer under its credit arrangement to the Fund's account;

(viii) "borrowed currency" means currency transferred to the Fund's account under a credit arrangement;

(ix) "drawer" means a member that purchases borrowed currency from the Fund in an exchange transaction or in an exchange transaction under a standby arrangement;

(x) "indebtedness" of the Fund means the amount it is committed to repay under a credit arrangement.

Paragraph 2. Credit Arrangements

A member or institution that adheres to this Decision undertakes to lend its currency to the Fund on the terms and conditions of this Decision up to the amount in units of its currency set forth in the Annex to this Decision or established in accordance with Paragraph 3(b).

Paragraph 3. Adherence

(a) Any member or institution specified in the annex may adhere to this Decision in accordance with Paragraph 3(c).

(b) Any member or institution not specified in the Annex that wishes to become a participant may at any time, after consultation with the Fund, give notice of its willingness to adhere to this Decision, and, if the Fund shall so agree and no participant object, the member or institution may adhere in accordance with Paragraph 3(c). When giving notice of its willingness to adhere under this Paragraph 3(b) a member or institution shall specify the amount, expressed in terms of its currency, of the credit arrangement which it is willing to enter into, provided that the amount shall not be less than the equivalent at the date of adherence of one hundred million United States dollars of the weight and fineness in effect on July 1, 1944.

(c) A member or institution shall adhere to this Decision by depositing with the Fund an instrument setting forth that it has adhered in accordance with its law and has taken all steps necessary to enable it to carry out the terms and conditions of this Decision. On the deposit of the instrument the member or institution shall be a participant as of the date of the deposit or of the effective date of this Decision, whichever shall be later.

Paragraph 4. Entry into Force

This Decision shall become effective when it has been adhered to by at least seven of the members or institutions included in the Annex with credit arrangements amounting in all to not less than the equivalent of five and one-half billion United States dollars of the weight and fineness in effect on July 1, 1944.

Paragraph 5. Changes in Amounts of Credit Arrangements

The amounts of participants' credit arrangements may be reviewed from time to time in the light of developing circumstances and changed with the agreement of the Fund and all participants.

Paragraph 6. Initial Procedure

When a participating member or a member whose institution is a participant approaches the Fund on an exchange transaction or stand-by arrangement and the Managing Director, after consultation, considers that the exchange transaction or stand-by arrangement is necessary in order to forestall or cope with an impairment of the international monetary system, and that the Fund's resources need to be supplemented for this purpose, he shall initiate the procedure for making calls under Paragraph 7.

Paragraph 7. Calls

(a) The Managing Director shall make a proposal for calls for an exchange transaction or for future calls for exchange transactions under a stand-by arrangement only after consultation with Executive Directors and participants. A proposal shall become effective only if it is accepted by participants and the proposal is then approved by the Executive Directors. Each participant shall notify the Fund of the acceptance of a proposal involving a call under its credit arrangement.

(b) The currencies and amounts to be called under one or more of the credit arrangements shall be based on the present and prospective balance of payments and reserve positions of participating members or members whose institutions are participants and on the Fund's holdings of currencies.

(c) Unless otherwise provided in a proposal for future calls approved under Paragraph 7(a), purchases of borrowed currency under a stand-by arrangement shall be made in the currencies of participants in proportion to the amounts in the proposal.

(d) If a participant on which calls may be made pursuant to Paragraph 7(a) for a drawer's purchases under a stand-by arrangement gives notice to the Fund that in the participant's opinion, based on the present and prospective balance of payments and reserve position, calls should no longer be made on the participant or that calls should be for a smaller amount, the Managing Director may propose to other participants that substitute amounts be made available under their credit arrangements, and this proposal shall be subject to the procedure of Paragraph 7(a). The proposal as originally approved under Paragraph 7(a) shall remain effective unless and until a proposal for substitute amounts is approved in accordance with Paragraph 7(a).

(e) When the Fund makes a call pursuant to this Paragraph 7, the participant shall promptly make the transfer in accordance with the call.

Paragraph 8. Evidence of Indebtedness

(a) The Fund shall issue to a participant, on its request, nonnegotiable instruments evidencing the Fund's indebtedness to the participant. The form of the instruments shall be agreed between the Fund and the participant.

(b) Upon repayment of the amount of any instrument issued under Paragraph 8(a) and all accrued interest, the instrument shall be returned to the Fund for cancellation. If less than the amount of any such instrument is repaid, the instrument shall be returned to the Fund and a new instrument for the remainder of the amount shall be substituted with the same maturity date as in the old instrument.

Paragraph 9. Interest and Charges

(a) The Fund shall pay a charge of one-half of one percent on transfers made in accordance with Paragraph 7(e).

(b) The Fund shall pay interest on its indebtedness at the rate of one and one-half percent per annum. In the event that this becomes different from a basic rate determined as follows:

the charge levied by the Fund pursuant to Article V, Section 8(a) plus the charge levied by the Fund pursuant to Article V, Section 8(c)(i), as changed from time to time under Article V, Section 8(e), during the first year after a purchase or exchange from the Fund, minus one-half of one percent.

The interest payable by the Fund shall be changed by the same amount as from the date when the difference in the basic rate takes effect. Interest shall be paid as soon as possible after July 31, October 31, January 31, and April 30.

(c) Interest and charges shall be paid in gold to the extent that this can be effected in bars. Any balance not so paid shall be paid in United States dollars.

(d) Gold payable to a participant in accordance with Paragraph 9(b) or Paragraph 11 shall be delivered at any gold depository of the Fund chosen by the participant at which the Fund has sufficient gold for making the payment. Such delivery shall be free of any charges or costs for the participant.

Paragraph 10. Use of Borrowed Currency

The Fund's policies and practices on the use of its resources and stand-by arrangements, including those relating to the period of use, shall apply to purchases of currency borrowed by the Fund.

Paragraph 11. Repayment by the Fund

(a) Subject to the other provisions of this Paragraph 11, the Fund, five years after a transfer by a participant, shall repay the participant an amount equivalent to the transfer calculated in accordance with Paragraph 12. If the drawer for whose purchase participants make transfers is committed to repurchase at a fixed date earlier than five years after its purchase, the Fund shall repay the participants at that date. Repayment under this Paragraph 11(a) or under Paragraph 11(c) shall be, as determined by the Fund, in the participant's currency whenever feasible, or in gold, or, after consultation with the participant, in other currencies that are convertible in fact. Repayments to a participant under the subsequent provisions of this Paragraph 11 shall be credited against transfers by the participant for a drawer's purchases in the order in which repayment must be made under this Paragraph 11(a).

(b) Before the date prescribed in Paragraph 11(a), the Fund, after consultation with a participant, may make repayment to the participant, in part or in full, with any increases in the Fund's holdings of the participant's currency that exceed the Fund's working requirements, and participants shall accept such repayment.

(c) Whenever a drawer repurchases, the Fund shall promptly repay an equivalent amount, except in any of the following cases:

(i) The repurchase is under Article V, Section 7(b) and can be identified as being in respect of a purchase of currency other than borrowed currency.

(ii) The repurchase is in discharge of a commitment entered into on a purchase of currency other than borrowed currency.

(iii) The repurchase entitles the drawer to augmented rights under a stand-by arrangement pursuant to Section II of Decision No. 876-(59/15) of the Executive Directors, provided that, to the extent that the drawer does not exercise such augment-

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ed rights, the Fund shall promptly repay an equivalent amount on the expiration of the stand-by arrangement.

(d) Whenever the Fund decides in agreement with a drawer that the problem for which the drawer made its purchases has been overcome, the drawer shall complete repurchase, and the Fund shall complete repayment and be entitled to use its holdings of the drawer's currency below 75 percent of the drawer's quota in order to complete such repayment.

(e) Repayments under Paragraph 11 (c) and (d) shall be made in the order established under Paragraph 11(a) and in proportion to the Fund's indebtedness to the participants that made transfers in respect of which repayment is being made.

(f) Before the date prescribed in Paragraph 11(a) a participant may give notice representing that there is a balance of payments need for repayment of part or all of the Fund's indebtedness and requesting such repayment. The Fund shall give the overwhelming benefit of any doubt to the participant's representation. Repayment shall be made after consultation with the participant in the currencies of other members that are convertible in fact, or made in gold, as determined by the Fund. If the Fund's holdings of currencies in which repayment should be made are not wholly adequate, individual participants shall be requested, and will be expected to provide the necessary balance under their credit arrangements. If, notwithstanding the expectation that the participants will provide the necessary balance, they fail to do so, repayment shall be made to the extent necessary in the currency of the drawer for whose purchases the participant requesting repayment made transfers. For all of the purposes of this Paragraph 11, transfers under this Paragraph 11(f) shall be deemed to have been made at the same time and for the same purchases as the transfers by the participant obtaining repayment under this Paragraph 11(f).

(g) All repayments to a participant in a currency other than its own shall be guided, to the maximum extent practicable, by the present and prospective balance of payments and reserve positions of the members whose currencies are to be used in repayment.

(h) The Fund shall at no time reduce its holdings of a drawer's currency below an amount equal to the Fund's indebtedness to the participants resulting from transfers for the drawer's purchases.

(i) When any repayment is made to a participant, the amount that can be called for under its credit arrangement in accordance with this Decision shall be restored *pro tanto* but not beyond the amount of the credit arrangement.

Paragraph 12. Rates of Exchange

(a) The value of any transfer shall be calculated as of the date of the transfer in terms of a stated number of fine ounces of gold or of the United States dollar of the weight and fineness in effect on July 1, 1944, and the Fund shall be obliged to repay an equivalent value.

(b) For all of the purposes of this Decision, the equivalent in currency of any number of fine ounces of gold or of the United States dollar of the weight and fineness in effect on July 1, 1944, or *vice versa*, shall be calculated at the rate of exchange at which the Fund holds such currency at the date as of which the calculation is

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made; provided however that the provisions of Decision No. 321-(54/32) of the Executive Directors on Transactions and Computations Involving Fluctuating Currencies, as amended by Decision No. 1245-(61/45) and Decision No. 1283-(61/56), shall determine the rate of exchange for any currency to which that decision, as amended, has been applied.

Paragraph 13. Transferability

A participant may not transfer all or part of its claim to repayment under a credit arrangement except with the prior consent of the Fund and on such terms and conditions as the Fund may approve.

Paragraph 14. Notices

Notice to or by a participating member under this Decision shall be in writing or by cable and shall be given to or by the fiscal agency of the participating member designated in accordance with Article V, Section 1 of the Articles and Rule G-1 of the Rules and Regulations of the Fund. Notice to or by a participating institution shall be in writing or by cable and shall be given to or by the participating institution.

Paragraph 15. Amendment

This Decision may be amended during the period prescribed in Paragraph 19(a) only by a decision of the Fund and with the concurrence of all participants. Such concurrence shall not be necessary for the modification of the Decision on its renewal pursuant to Paragraph 19(b).

Paragraph 16. Withdrawal of Adherence

A participant may withdraw its adherence to this Decision in accordance with Paragraph 19(b) but may not withdraw within the period described in Paragraph 19(a) except with the agreement of the Fund and all participants.

Paragraph 17. Withdrawal from Membership

If a participating member or a member whose institution is a participant withdraws from membership in the Fund, the participant's credit arrangement shall cease at the same time as the withdrawal takes effect. The Fund's indebtedness under the credit arrangement shall be treated as an amount due from the Fund for the purpose of Article XV, Section 3, and Schedule D of the Articles.

Paragraph 18. Suspension of Exchange Transactions and Liquidation

(a) The right of the Fund to make calls under Paragraph 7 and the obligation to make repayments under Paragraph 11 shall be suspended during any suspension of exchange transactions under Article XVI of the Articles.

(b) In the event of liquidation of the Fund, credit arrangements shall cease and the Fund's indebtedness shall constitute liabilities under Schedule E of the Articles. For the purpose of Paragraph 1(a) of Schedule E, the currency in which the liability of the Fund shall be payable shall be first the participant's currency and then the currency of the drawer for whose purchases transfers were made by the participant.

Paragraph 19. Period and Renewal

(a)[1] This Decision shall continue in existence for four years from its effective date.

(b) This Decision may be renewed for such periods and with such modifications, subject to Paragraph 5, as the Fund may decide. The Fund shall adopt a decision on renewal and modification, if any, not later than twelve months before the end of the period prescribed in Paragraph 19(a). Any participant may advise the Fund not less than six months before the end of the period prescribed in Paragraph 19(a) that it will withdraw its adherence to the Decision as renewed. In the absence of such notice, a participant shall be deemed to continue to adhere to the Decision as renewed. Withdrawal of adherence in accordance with this Paragraph 19(b) by a participant, whether or not included in the Annex, shall not preclude its subsequent adherence in accordance with Paragraph 3(b).

(c) If this Decision is terminated or not renewed, Paragraphs 8 through 14, 17 and 18(b) shall nevertheless continue to apply in connection with any indebtedness of the Fund under credit arrangements in existence at the date of the termination or expiration of the Decision until repayment is completed. If a participant withdraws its adherence to this Decision in accordance with Paragraph 16 or Paragraph 19(b), it shall cease to be a participant under the Decision, but Paragraphs 8 through 14, 17 and 18(b) of the Decision as of the date of the withdrawal shall nevertheless continue to apply to any indebtedness of the Fund under the former credit arrangement until repayment has been completed.

Paragraph 20. Interpretation

Any question of interpretation raised in connection with this Decision which does not fall within the purview of Article XVIII of the Articles shall be settled to the mutual satisfaction of the Fund, the participant raising the question, and all other participants. For the purpose of this Paragraph 20 participants shall be deemed to include those former participants to which Paragraphs 8 through 14, 17 and 18(b) continue to apply pursuant to Paragraph 19(c) to the extent that any such former participant is affected by a question of interpretation that is raised.

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[1] On October 15, 1965, the Executive Directors approved a four year renewal dating from October, 1966 of Executive Board Decision No. 1289–(62/1). On October 17, 1969, the Executive Directors approved a five-year period of renewal from October 24, 1970 (EBD No. 2858–(69/97), Oct. 17, 1969). On October 24, 1974, the Executive Directors approved a five-year renewal dating from October 25, 1975.

ANNEX

Participants and amounts of Credit Arrangements

	Units of Participant's Currency
1. United States of America (US$)	2,000,000,000
2. Deutsche Bundesbank (DM)	4,000,000
3. United Kingdom (£)	357,142,857
4. France (NF)	2,715,381,428
5. Italy (Lit)	343,750,000,000
6. Japan (Yen)	90,000,000,000
7. Canada (Can$)	216,216,000
8. Netherlands (f.)	724,000,000
9. Belgium (BF)	7,500,000,000
10. Sveriges Riksbank (Sweden) (SKr)	517,320,000

The foregoing is the text of a decision of the Executive Board taken at Meeting 62/1, January 5, 1962.

ROMAN L. HORNE, *Secretary.*

c. Exchange of Correspondence between M. Wilfrid Baumgartner, Minister of Finance, France, and Douglas Dillon, Secretary of the Treasury, United States

MINISTÈRE DES FINANCES
Le Ministre, le 15 Décembre 1961.

The Honorable DOUGLAS DILLON,
Secretary of the Treasury.

DEAR MR. SECRETARY: The purpose of this letter is to set forth the understandings reached during the recent discussions in Paris with respect to the procedure to be followed by the Participating Countries and Institutions (hereinafter referred to as "the participants") in connection with borrowings by the International Monetary Fund of Supplementary Resources under credit arrangements which we expect will be established pursuant to a decision of the Executive Directors of the Fund.

This procedure, which would apply after the entry into force of that decision with respect to the participants which adhere to it in accordance with their laws, and which would remain in effect during the period of the decision, is as follows:

A. A participating country which has need to draw currencies from the International Monetary Fund or to seek a stand-by agreement with the Fund in circumstances indicating that the Supplementary Resources might be used, shall consult with the Managing Director of the Fund first and then with the other participants.

B. If the Managing Director makes a proposal for Supplementary Resources to be lent to the Fund, the participants shall consult on this proposal and inform the Managing Director of the amounts of their currencies which they consider appropriate to lend to the Fund, taking into account the recommendations of the Managing Director and their present and prospective balance of payments and reserve positions. The participants shall aim at reaching unanimous agreement.

C. If it is not possible to reach unanimous agreement, the question whether the participants are prepared to facilitate, by lending their currencies, an exchange transaction or stand-by arrangement of the kind covered by the special borrowing arrangements and requiring the Fund's resources to be supplemented in the general order of magnitude proposed by the Managing Director, will be decided by a poll of the participants.

The prospective drawer will not be entitled to vote. A favorable decision shall require the following majorities of the participants which take part in the vote, it being understood that abstentions may be justified only for balance of payments reasons as stated in paragraph D:

(1) a two-thirds majority of the number of participants voting; and

(2) a three-fifth majority of the weighted votes of the participants voting, weighted on the basis of the commitments to the Supplementary Resources.

D. If the decision in paragraph C is favorable, there shall be further consultations among the participants, and with the Managing Director, concerning the amounts of the currencies of the respective participants which will be loaned to the Fund in order to attain a total in the general order of magnitude agreed under paragraph C. If during the consultations a participant gives notice that in its opinion, based on its present and prospective balance of payments and reserve position, calls should not be made on it, or that calls should be for a smaller amount than that proposed, the participants shall consult among themselves and with the Managing Director as to the additional amounts of their currencies which they could provide so as to reach the general order of magnitude agreed under paragraph C.

E. When agreement is reached under paragraph D, each participant shall inform the Managing Director of the calls which it is prepared to meet under its credit arrangement with the Fund.

F. If a participant which has loaned its currency to the Fund under its credit arrangement with the Fund subsequently requests a reversal of its loan which leads to further loans to the Fund by other participants, the participant seeking such reversal shall consult with the Managing Director and with the other participants.

For the purpose of the consultative procedures described above, participants will designate representatives who shall be empowered to act with respect to proposals for use of the Supplementary Resources.

It is understood that in the event of any proposals for calls under the credit arrangements or if other matters should arise under the Fund decision requiring consultations among the participants, a consultative meeting will be held among all the participants. The representative of France shall be responsible for calling the first meeting, and at that time the participants will determine who shall be the Chairman. The Managing Director of the Fund or his representative shall be invited to participate in these consultative meetings.

It is understood that in order to further the consultations envisaged, participants should, to the fullest extent practicable, use the facilities of the international organizations to which they belong in keeping each other informed of developments in their balances of payments that could give rise to the use of the Supplementary Resources.

These consultative arrangements, undertaken in a spirit of international cooperation, are designed to insure the stability of the international payments system.

I shall appreciate a reply confirming that the foregoing represents the understandings which have been reached with respect to the procedure to be followed in connection with borrowings by the International Monetary Fund under the credit arrangements to which I have referred.

I am sending identical letters to the other participants—that is, Belgium, Canada, Germany, Italy, Japan, The Netherlands, Sweden, the United Kingdom. Attached is a verbatim text of this letter in English. The French and English texts and the replies of the participants in both languages, shall be equally authentic. I shall notify all of the participants of the confirmations received in response to this letter.

W. BAUMGARTNER.

Acceptance by the United States, Belgium, Canada, Germany, Italy, Japan, the Netherlands, Sweden, the United Kingdom, and France.

2. International Bank for Reconstruction and Development (Amended Articles of Agreement)

CONTENTS

Page
Introductory Article ... 435
I. Purposes ... 435
II. Membership in the Capital of the Bank ... 436
  1. Membership ... 436
  2. Authorized capital ... 436
  3. Subscription of shares ... 436
  4. Issue price of shares ... 436
  5. Division and calls of subscribed capital ... 437
  6. Limitation on liability ... 437
  7. Method of payment of subscriptions for shares ... 437
  8. Time of payment of subscriptions ... 437
  9. Maintenance of value of certain currency holdings of the Bank . 438
  10. Restriction on disposal of shares ... 438
III. General Provisions Relating to Loans and Guarantees ... 438
  1. Use of resources ... 438
  2. Dealings between members and the Bank ... 439
  3. Limitations on guarantees and borrowings of the Bank ... 439
  4. Conditions on which the Bank may guarantee or make loans ... 439
  5. Use of loans guaranteed, participated in or made by the Bank ... 439
  6. Loans to the International Finance Corporation ... 440
IV. Operations ... 440
  1. Methods of making or facilitating loans ... 440
  2. Availability and transferability of currencies ... 440
  3. Provision of currencies for direct loans ... 441
  4. Payment provisions for direct loans ... 442
  5. Guarantees ... 443
  6. Special reserve ... 443
  7. Methods of meeting liabilities of the Bank in case of defaults ... 443
  8. Miscellaneous operations ... 444
  9. Warning to be placed on securities ... 444
  10. Political activity prohibited ... 444
V. Organization and Management ... 445
  1. Structure of the Bank ... 445
  2. Board of Governors ... 445
  3. Voting ... 446
  4. Executive Directors ... 446
  5. President and staff ... 447
  6. Advisory Council ... 447
  7. Loan Committees ... 447
  8. Relationship to other international organizations ... 448
  9. Location of offices ... 448
  10. Regional offices and councils ... 448
  11. Depositories ... 448
  12. Form of holdings of currency ... 448
  13. Publication of reports and provision of information ... 449
  14. Allocation of net income ... 449
VI. Withdrawal and suspension of membership: Suspension of Operations ... 449
  1. Right of members to withdraw ... 449
  2. Suspension of membership ... 449
  3. Cessation of membership in International Monetary Fund ... 450
  4. Settlement of accounts with governments ceasing to be members ... 450
  5. Suspension of operations and settlement of obligations ... 451

Page
VII. Status, Immunities, and Privileges 452
1. Purposes of Article 452
2. Status of the Bank 452
3. Position of the Bank with regard to judicial process 452
4. Immunity of assets from seizure 452
5. Immunity of archives 452
6. Freedom of assets from restrictions 453
7. Privilege for communications 453
8. Immunities and privileges of officers and employees 453
9. Immunities from taxation 453
10. Application of Article 454
VIII. Amendments 454
IX. Interpretation 454
X. Approval deemed given 455
XI. Final Provisions 455
1. Entry into force 455
2. Signature 455
3. Inauguration of the bank 456
Schedule B. Election of Executive Directors 457

Articles of Agreement of the International Bank for Reconstruction and Development[1] (amended)[2]

Articles of agreement between the United States of America and other powers respecting the International Bank for Reconstruction and Development. Formulated at the United Nations Monetary and Financial Conference, Bretton Woods, New Hampshire, July 1 to July 22, 1944; signed at Washington, December 27, 1945; instrument of acceptance by the United States of America deposited December 20, 1945; effective December 27, 1945. Amended December 16, 1965[2]

The governments on whose behalf the present Agreement is signed agree as follows:

Introductory Article

The International Bank for Reconstruction and Development is established and shall operate in accordance with the following provisions:

Article I. Purposes

The purposes of the Bank are:

(i) To assist in the reconstruction and development of territories of members by facilitating the investment of capital for productive purposes, including the restoration of economies destroyed or disrupted by war, the reconversion of productive facilities to peacetime needs and the encouragement of the development of productive facilities and resources in less developed countries.

(ii) To promote private foreign investment by means of guarantees or participations in loans and other investments made by private investors; and when private capital is not available on reasonable terms, to supplement private investment by providing, on suitable conditions, finance for productive purposes out of its own capital, funds raised by it and its other resources.

(iii) To promote the long-range balanced growth of international trade and the maintenance of equilibrium in balances of payments by encouraging international investment for the development of the productive resources of members, thereby assisting in raising productivity, the standard of living and conditions of labor in their territories.

(iv) To arrange the loans made or guaranteed by it in relation to international loans through other channels so that the more useful and urgent projects, large and small alike, will be dealt with first.

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[1] 60 Stat. 1440; TIAS 1503; 3 Bevans 1390. For a list of states which are parties to the Bank, see Department of State publication, *Treaties in Force*.

[2] 16 UST 1942; TIAS 5929. Done at Washington December 16, 1965; Entered into force December 17, 1965.

(v) To conduct its operations with due regard to the effect of international investment on business conditions in the territories of members and, in the immediate postwar years, to assist in bringing about a smooth transition from a wartime to a peacetime economy.

The Bank shall be guided in all its decisions by the purposes set forth above.

ARTICLE II. MEMBERSHIP IN AND CAPITAL OF THE BANK

Section 1. Membership

(a) The original members of the Bank shall be those members of the International Monetary Fund which accept membership in the Bank before the date specified in Article XI, Section 2(e).

(b) Membership shall be open to other members of the Fund, at such times and in accordance with such terms as may be prescribed by the Bank.

Sec. 2. Authorized capital

(a) The authorized capital stock of the Bank shall be $10,000,000,000,[3] in terms of United States dollars of the weight and fineness in effect on July 1, 1944. The capital stock shall be divided into 100,000 shares having a par value of $100,000 each, which shall be available for subscription only by members.

(b) The capital stock may be increased when the Bank deems it advisable by a three-fourths majority of the total voting power.

Sec. 3. Subscription of shares

(a) Each member shall subscribe shares of the capital stock of the Bank. The minimum number of shares to be subscribed by the original members shall be those set forth in Schedule A. The minimum number of shares to be subscribed by other members shall be determined by the Bank, which shall reserve a sufficient proportion of its capital stock for subscription by such members.

(b) The Bank shall prescribe rules laying down the conditions under which members may subscribe shares of the authorized capital stock of the Bank in addition to their minimum subscriptions.

(c) If the authorized capital stock of the Bank is increased, each member shall have a reasonable opportunity to subscribe, under such conditions as the Bank shall decide, a portion of the increase of stock equivalent to the proportion which its stock theretofore subscribed bears to the total capital stock of the Bank, but no member shall be obligated to subscribe any part of the increased capital.

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[3] The authorized capital of the Bank was increased by $10 billion in 1959, a further $1 billion in 1959, $1 billion in 1963, $2 billion in 1965 and $3 billion in 1970. Thus, after the Dec. 31, 1970 increase, the total authorized capital stock of the bank amounted to $27 billion (in terms of 1944 dollars), divided into 270,000 shares having a par value of $100,000 each (in terms of current dollars, the total authorized capital stock of the bank was $32.6 billion). In 1977 a further increase of $8.4 billion was authorized making the total capital of the bank $41 billion. In 1981, the authorized capital of the Bank was increased by $40 billion to SDR 716.5 billion.

Sec. 4. Issue price of shares

Shares included in the minimum subscriptions of original members shall be issued at par. Others shares shall be issued at par unless the Bank by a majority of the total voting power decides in special circumstances to issue them on other terms.

Sec. 5. Division and calls of subscribed capital

The subscription of each member shall be divided into two parts as follows:

(i) twenty percent shall be paid or subject to call under Section 7(i) of this Article as needed by the bank for its operations;

(ii) the remaining eighty percent shall be subject to call by the Bank only when required to meet obligations of the Bank created under Article IV, Sections 1(a), (ii) and (iii).

Calls on unpaid subscriptions shall be uniform on all shares.

Sec. 6. Limitation on liability

Liability on shares shall be limited to the unpaid portion of the issue price of the shares.

Sec. 7. Method of payment of subscriptions for shares

Payment of subscriptions for shares shall be made in gold or United States dollars and in the currencies of the members as follows:

(i) under Section 5(i) of this Article, two percent of the price of each share shall be payable in gold or United States dollars, and, when calls are made, the remaining eighteen percent shall be paid in the currency of the member;

(ii) when a call is made under Section 5(iii) of this Article, payment may be made at the option of the member either in gold, in United States dollars or in the currency required to discharge the obligations of the Bank for the purpose for which the call is made;

(iii) when a member makes payments in any currency under (i) and (ii) above, such payments shall be made in amounts equal in value to the member's liability under the call. This liability shall be a proportionate part of the subscribed capital stock of the Bank as authorized and defined in Section 2 of this Article.

Sec. 8. Time of payment of subscriptions

(a) The two percent payable on each share in gold or United States dollars under Section 7(i) of this Article, shall be paid within sixty days of the date on which the Bank begins operations, provided that—

(i) any original member of the Bank whose metropolitan territory has suffered from enemy occupation or hostilities during the present war shall be granted the right to postpone payment of one-half percent until five years after that date;

(ii) an original member who cannot make such a payment because it has not recovered possession of its gold reserves which are still seized or immobilized as a result of the war may postpone all payment until such date as the Bank shall decide.

(b) The remainder of the price of each share payable under Section 7(i) of this Article shall be paid as and when called by the Bank, provided that—

(i) the Bank shall, within one year of its beginning operations, call not less than eight percent of the price of the share in addition to the payment of two percent referred to in (a) above;

(ii) not more than five percent of the price of the share shall be called in any period of three months.

Sec. 9. Maintenance of value of certain currency holdings of the Bank

(a) Whenever (i) the par value of a member's currency is reduced, or (ii) the foreign exchange value of a member's currency has, in the opinion of the Bank, depreciated to a significant extent within that member's territories, the member shall pay to the Bank within a reasonable time an additional amount of its own currency sufficient to maintain the value, as of the time of initial subscription, of the amount of the currency of such member which is held by the Bank and derived from currency originally paid in the Bank by the member under Article II, Section 7(i), from currency referred to in Article IV, Section 2(b), or from any additional currency furnished under the provisions of the present paragraph, and which has not been repurchased by the member for gold or for the currency of any member which is acceptable to the Bank.

(b) Whenever the par value of a member's currency is increased, the Bank shall return to such member within a reasonable time an amount of that member's currency equal to the increase in the value of the amount of such currency described in (a) above.

(c) The provisions of the preceding paragraphs may be waived by the Bank when a uniform proportionate change in the par values of the currencies of all its members is made by the International Monetary Fund.

Sec. 10. Restriction on disposal of shares

Shares shall not be pledged or encumbered in any manner whatever and they shall be transferable only to the Bank.

ARTICLE III. GENERAL PROVISIONS RELATING TO LOANS AND GUARANTEES

Section. 1. Use of resources

(a) The resources and the facilities of the Bank shall be used exclusively for the benefit of members with equitable consideration to projects for development and projects for reconstruction alike.

(b) for the purpose of facilitating the restoration and reconstruction of the economy of members whose metropolitan territories have suffered great devastation from enemy occupation or hostilities, the Bank, in determining the conditions and terms of loans made to such members, shall pay special regard to lightening the financial burden and expediting the completion of such restoration and reconstruction.

Sec. 2. Dealings between members and the Bank

Each member shall deal with the Bank only through its treasury, central bank, stabilizaiton fund or other similar fiscal agency, and the Bank shall deal with members only by or through the same agencies.

Sec. 3. Limitations on guarantees and borrowings of the Bank

The total amount outstanding of guarantees, participations in loans and direct loans made by the Bank shall not be increased at any time, if by such increase the total would exceed one hundred percent of the unimpaired subscribed capital, reserves and surplus of the Bank.

Sec. 4. Conditions on which the Bank may guarantee or make loans

The Bank may guarantee, participate in, or make loans to any member or any political subdivision thereof and any business, industrial, and agricultural enterprise in the territories of a member, subject to the following conditions:

(i) When the member in whose territories the project is located is not itself the borrower, the member or the central bank or some comparable agency of the member which is acceptable to the Bank, fully guarantees the repayment of the principal and the payment of interest and other charges on the loan.

(ii) The Bank is satisfied that in the prevailing market conditions the borrower would be unable otherwise to obtain the loan under conditions which in the opinion of the Bank are reasonable for the borrower.

(iii) A competent committee, as provided for in Article V, Section 7, has submitted a written report recommending the project after a careful study of the merits of the proposal.

(iv) In the opinion of the Bank the rate of interest and other charges are reasonable and such rate, charges and the schedule for repayment of principal are appropriate to the project.

(v) In making or guaranteeing a loan, the Bank shall pay due regard to the prospects that the borrower, and, if the borrower is not a member, that the guarantor, will be in position to meet its obligations under the loan; and the Bank shall act prudently in the interests both of the particular member in whose territories the project is located and of the members as a whole.

(vi) In guaranteeing a loan made by other investors, the Bank receives suitable compensation for its risk.

(vii) Loans made or guaranteed by the Bank shall, except in special circumstances, be for the purpose of specific projects of reconstruction or development.

Sec. 5. Use of loans guaranteed, participated in or made by the Bank

(a) The Bank shall impose no conditions that the proceeds of a loan shall be spent in the territories of any particular member or members.

(b) The Bank shall make arrangements to ensure that the proceeds of any loan are used only for the purposes for which the loan was granted, with due attention to considerations of economy and efficiency and without regard to political or other non-economic influences or considerations.

(c) In the case of loans made by the Bank, it shall open an account in the name of the borrower and the amount of the loan shall be credited to this account in the currency or currencies in which the loan is made. The borrower shall be permitted by the Bank to draw on this account only to meet expenses in connection with the project as they are actually incurred.

Sec. 6. Loans to the International Finance Corporation [4]

(a) The Bank may make, participate in, or guarantee loans to the International Finance Corporation, an affiliate of the Bank, for use in its lending operations. The total amount outstanding of such loans, participations and guarantees shall not be increased if, at the time or as a result thereof, the aggregate amount of debt (including the guarantee of any debt) incurred by the said Corporation from any source and then outstanding shall exceed an amount equal to four times its unimpaired subscribed capital and surplus.

(b) The provisions of Article III, Sections 4 and 5(c) and of Article IV, Section 3 shall not apply to loans, participations and guarantees authorized by this Section.

ARTICLE IV. OPERATIONS

Section 1. Methods of making or facilitating loans

(a) The Bank may make or facilitate loans which satisfy the general conditions of Article III in any of the following ways:

(i) By making or participating in direct loans out of its own funds corresponding to its unimpaired paid-up capital and surplus and, subject to Section 6 of this Article, to its reserves.

(ii) By making or participating in direct loans out of funds raised in the market of a member, or otherwise borrowed by the Bank.

(iii) By guaranteeing in whole or in part loans made by private investors through the usual investment channels.

(b) The Bank may borrow funds under (a)(ii) above or guarantee loans under (a)(iii) above only with the approval of the member in whose markets the funds are raised and the member in whose currency the loan is denominated, and only if those members agree that the proceeds may be exchanged for the currency of any other member without restriction.

Sec. 2. Availability and transferability of currencies

(a) Currencies paid into the Bank under Article II, Section 7(i), shall be loaned only with the approval in each case of the member whose currency is involved; provided, however, that if necessary, after the Bank's subscribed capital has been entirely called, such currencies shall, without restriction by the members whose currencies are offered, be used or exchanged for the currencies required to meet contractual payments of interest, other charges or amortization on the Bank's own borrowings, or to meet the Bank's liabilities with respect to such contractual payments on loans guaranteed by the Bank.

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[4] Section 6 was added by amendment effective December 17, 1965 (16 UST 1942; TIAS 5929).

(b) Currencies received by the Bank from borrowers and guarantors in payment on account of principal of direct loans made with currencies referred to in (a) above shall be exchanged for the currencies of other members or reloaned only with the approval for the currencies of other members or reloaned only with the approval in each case of the members whose currencies are involved; provided, however, that if necessary, after the Bank's subscribed capital has been entirely called, such currencies shall, without restriction by the members whose currencies are offered, be used or exchanged for the currencies required to meet contractual payments of interest, other charges or amortization on the Bank's own borrowings, or to meet the Bank's liabilities with respect to such contractual payments on loans guaranteed by the Bank.

(c) Currencies received by the Bank from borrowers or guarantors in payment on account of principal of direct loans made by the Bank under Section 1(a)(ii) of this Article, shall be held and used, without restriction by the members, to make amortization payments, or to anticipate payment of or repurchase part or all of the Bank's own obligations.

(d) All other currencies available to the Bank, including those raised in the market or otherwise borrowed under Section 1(a)(ii) of this Article, those obtained by the sale of gold, those received as payments of interest and other charges for direct loans made under Sections 1(a) (i) and (ii), and those received as payments of commissions and other charges under Section 1(a)(iii), shall be used or exchanged for other currencies or gold required in the operations of the Bank without restriction by the members whose currencies are offered.

(e) Currencies raised in the markets of members by borrowers on loans guaranteed by the Bank under Section 1(a)(iii) of this Article, shall also be used or exchanged for other currencies without restriction by such members.

Sec. 3. Provision of currencies for direct loans

The following provisions shall apply to direct loans under Sections 1(a) (i) and (ii) of this Article:

(a) The Bank shall furnish the borrower with such currencies of members, other than the member in whose territories the project is located, as are needed by the borrower for expenditures to be made in the territories of such other members to carry out the purposes of the loan.

(b) The Bank may, in exceptional circumstances when local currency required for the purposes of the loan cannot be raised by the borrower on reasonable terms, provide the borrower as part of the loan with an appropriate amount of that currency.

(c) The Bank, if the project gives rise indirectly to an increased need for foreign exchange by the member in whose territories the project is located, may in exceptional circumstances provide the borrower as part of the loan with an appropriate amount of gold or foreign exchange not in excess of the borrower's local expenditure in connection with the purposes of the loan.

(d) The Bank may, in exceptional circumstances, at the request of a member in whose territories a portion of the loan is spent, repurchase with gold or foreign exchange a part of that member's currency thus spent but in no case shall the part so repurchased exceed the amount by which the expenditure of the loan in those territories gives rise to an increased need for foreign exchange.

Sec. 4. Payment provisions for direct loans

Loan contracts under Section 1(a) (i) or (ii) of this Article shall be made in accordance with the following payment provisions:

(a) The terms and conditions of interest and amortization payments, maturity and dates of payment of each loan shall be determined by the Bank. The Bank shall also determine the rate and any other terms and conditions of commission to be charged in connection with such loan.

In the case of loans made under Section 1(a)(ii) of this Article during the first ten years of the Bank's operations, this rate of commission shall be not less than one percent per annum and not greater than one and one-half percent per annum, and shall be charged on the outstanding portion of any such loan. At the end of this period of ten years, the rate of commission may be reduced by the Bank with respect both to the outstanding portions of loans already made and to future loans, if the reserves accumulated by the Bank under Section 6 of the Article and out of other earnings are considered by it sufficient to justify a reduction. In the case of future loans the Bank shall also have discretion to increase the rate of commission beyond the above limit, if experience indicates that an increase is advisable.

(b) All loan contracts shall stipulate the currency or currencies in which payments under the contract shall be made to the Bank. At the option of the borrower, however, such payments may be made in gold, or subject to the agreement of the Bank, in the currency of a member other than that prescribed in the contract.

(i) In the case of loans made under Section 1(a)(i) of this Article, the loan contracts shall provide that payments to the Bank of interest, other charges and amortization shall be made in the currency loaned, unless the member whose currency is loaned agrees that such payments shall be made in some other specified currency or currencies. These payments, subject to the provisions of Article II, Section 9(c), shall be equivalent to the value of such contractual payments at the time the loans were made, in terms of a currency specified for the purpose by the Bank by a three-fourths majority of the total voting power.

(ii) In the case of loans made under Section 1(a)(ii) of this Article, the total amount outstanding and payable to the bank in any one currency shall at no time exceed the total amount of the outstanding borrowings made by the Bank under Section 1 (a)(ii) and payable in the same currency.

(c) If a member suffers from an acute exchange stringency, so that the service of any loan contracted by that member or guaranteed by it or by one of its agencies cannot be provided in the stipulated manner, the member concerned may apply to the Bank for a relaxation of the conditions of payment. If the Bank is satisfied that some relaxation is in the interests of the particular member and of the operations of the Bank and of its members as a whole, it may take action under either, or both, of the following paragraphs with respect to the whole, or part, of the annual service:

(i) The Bank may, in its discretion, make arrangements with the member concerned to accept service payments on the loan in the member's currency for periods not to exceed three years upon appropriate terms regarding the use of such currency and the maintenance of its foreign exchange value; and for the repurchase of such currency on appropriate terms.

(ii) The Bank may modify the terms of amortization or extend the life of the loan, or both.

Sec. 5. Guarantees

(a) In guaranteeing a loan placed through the usual investment channels, the Bank shall charge a guarantee commission payable periodically on the amount of the loan outstanding at a rate determined by the Bank. During the first ten years of the Bank's operations, this rate shall be not less than one percent per annum and not greater than one and one-half percent per annum. At the end of this period of ten years, the rate of commission may be reduced by the Bank with respect both to the outstanding portions of loans already guaranteed and to future loans if the reserves accumulated by the Bank under Section 6 of this Article and out of other earnings are considered by it sufficient to justify a reduction. In the case of future loans the Bank shall also have discretion to increase the rate of commission beyond the above limit, if experience indicates that an increase is advisable.

(b) Guarantee commissions shall be paid directly to the Bank by the borrower.

(c) Guarantees by the Bank shall provide that the Bank may terminate its liability with respect to interest if, upon default by the borrower and by the guarantor, if any, the Bank offers to purchase, at par and interest accrued to a date designated in the offer, the bonds or other obligations guaranteed.

(d) The Bank shall have power to determine any other terms and conditions of the guarantee.

Sec. 6. Special reserve

The amount of commissions received by the Bank under Sections 4 and 5 of this Article shall be set aside as a special reserve, which shall be kept available for meeting liabilities of the Bank in accordance with Section 7 of this Article. The special reserve shall be held in such liquid form, permitted under this Agreement, as the Executive Directors may decide.

Sec. 7. Methods of meeting liabilities of the Bank in case of defaults

In case of default on loans made, participated in, or guaranteed by the Bank:

(a) The Bank shall make such arrangements as may be feasible to adjust the obligations under the loans, including arrangements under or analogous to those provided in Section 4(c) of this Article.

(b) The payments in discharge of the Bank's liabilities on borrowings or guarantees under Section 1(a) (ii) and (iii) of this Article shall be charged—

(i) first, against the special reserve provided in Section 6 of this Article;

(ii) then, to the extent necessary and at the discretion of the Bank, against the other reserves, surplus and capital available to the Bank.

(c) Whenever necessary to meet contractual payments of interest, other charges or amortization on the Bank's own borrowings, or to meet the Bank's liabilities with respect to similar payments on loans guaranteed by it, the Bank may call an appropriate amount of the unpaid subscriptions of members in accordance with Article II, Sections 5 and 7. Moreover, if it believes that a default may be of long duration, the Bank may call an additional amount of such unpaid subscriptions not to exceed in any one year one percent of the total subscriptions of the members of the following purposes:

(i) To redeem prior to maturity, or otherwise discharge its liability on, all or part of the outstanding principal of any loan guaranteed by it in respect of which the debtor is in default.

(ii) To repurchase, or otherwise discharge its liability on, all or part of its own outstanding borrowings.

Sec. 8. Miscellaneous operations

In addition to the operations specified elsewhere in this Agreement, the Bank shall have the power:

(i) To buy and sell securities it has issued and to buy and sell securities which it has guaranteed or in which it has invested, provided that the Bank shall obtain the approval of the member in whose territories the securities are to be bought or sold.

(ii) To guarantee securities in which it has invested for the purpose of facilitating their sale.

(iii) To borrow the currency of any member with the approval of that member.

(iv) To buy and sell such other securities as the directors by a three-fourths majority of the total voting power may deem proper for the investment of all or part of the special reserve under section 6 of this Article.

In exercising the powers conferred by this section, the Bank may deal with any person, partnership, association, corporation or other legal entity in the territories of any member.

Sec. 9. Warning to be placed on securities

Every security guaranteed or issued by the Bank shall bear on its face a conspicuous statement to the effect that it is not an obligation of any government unless expressly stated on the security.

Sec. 10. Political activity prohibited

The Bank and its officers shall not interfere in the political affairs of any member; nor shall they be influenced in their decisions by the political character of the member or members concerned. Only economic considerations shall be relevant to their decisions, and these considerations shall be weighed impartially in order to achieve the purposes stated in Article I.

ARTICLE V. ORGANIZATION AND MANAGEMENT

Section 1. Structure of the Bank

The Bank shall have a Board of Governors, Executive Directors, a President and such other officers and staff to perform such duties as the Bank may determine.

Sec. 2. Board of Governors

(a) All the powers of the Bank shall be vested in the Board of Governors consisting of one governor and one alternate appointed by each member in such manner as it may determine. Each governor and each alternate shall serve for five years, subject to the pleasure of the member appointing him, and may be reappointed. No alternate may vote except in the absence of his principal. The Board shall select one of the governors as Chairman.

(b) The Board of Governors may delegate to the Executive Directors authority to exercise any powers of the Board, except the power to:

(i) Admit new members and determine the conditions of their admission;

(ii) Increase or decrease the capital stock;

(iii) Suspend a member;

(iv) Decide appeals from interpretations of this Agreement given by the Executive Directors;

(v) Make arrangements to cooperate with other international organizations (other than informal arrangements of a temporary and administrative character);

(vi) Decide to suspend permanently the operations of the Bank and to distribute its assets;

(vii) Determine the distribution of the net income of the Bank.

(c) The Board of Governors shall hold an annual meeting and such other meetings as may be provided for by the Board or called by the Executive Directors. Meetings of the Board shall be called by the directors whenever requested by five members or by members having one-quarter of the total voting power.

(d) A quorum for any meeting of the Board of Governors shall be a majority of the governors, exercising not less than two-thirds of the total voting power.

(e) The Board of Governors may by regulation establish a procedure whereby the Executive Directors, when they deem such action to be in the best interests of the Bank, may obtain a vote of the Governors on a specific question without calling a meeting of the Board.

(f) The Board of Governors, and the Executive Directors to the extent authorized, may adopt such rules and regulations as may be necessary or appropriate to conduct the business of the Bank.

(g) Governors and alternates shall serve as such without compensation from the Bank, but the Bank shall pay them reasonable expenses incurred in attending meetings.

(h) The Board of Governors shall determine the remuneration to be paid to the Executive Directors and the salary and terms of the contract of service of the President.

Sec. 3. Voting

(a) Each member shall have two hundred and fifty votes plus one additional vote for each share of stock held.

(b) Except as otherwise specifically provided, all matters before the Bank shall be decided by a majority of the votes cast.

Sec. 4. Executive Directors

(a) The Executive Directors shall be responsible for the conduct of the general operations of the Bank, and for this purpose, shall exercise all the powers delegated to them by the Board of Governors.

(b) There shall be twelve Executive Directors, who need not be governors, and of whom—

(i) five shall be appointed, one by each of the five members having the largest number of shares;

(ii) seven shall be elected according to Schedule B by all the governors other than those appointed by the five members referred to in (i) above.

For the purpose of this paragraph "members" means governments of countries whose names are set forth in Schedule A, whether they are original members or become members in accordance with Article II, Section 1(b). When governments of other countries become members, the Board of Governors may, by a four-fifths majority of the total voting power, increase the total number of directors by increasing the number of directors to be elected.

Executive Directors shall be appointed or elected every two years.

(c) Each Executive Director shall appoint an alternate with full power to act for him when he is not present. When the Executive Directors appointing them are present, alternates may participate in meetings but shall not vote.

(d) Directors shall continue in office until their successors are appointed or elected. If the office of an elected director becomes vacant more than ninety days before the end of his term, another director shall be elected for the remainder of the term by the governors who elected the former director. A majority of the votes cast shall be required for election. While the office remains vacant, the alternate of the former director shall exercise his powers, except that of appointing an alternate.

(e) The Executive Directors shall function in continuous session at the principal office of the Bank and shall meet as often as the business of the Bank may require.

(f) A quorum for any meeting of the Executive Directors shall be a majority of the directors, exercising not less than one half of the total voting power.

(g) Each appointed director shall be entitled to cast the number of votes allotted under Section 3 of this Article to the member appointing him. Each elected director shall be entitled to cast the number of votes which counted toward his election. All the votes which a director is entitled to cast shall be cast as a unit.

(h) The Board of Governors shall adopt regulations under which a member not entitled to appoint a director under (b) above may send a representative to attend any meeting of the Executive Directors when a request made by, or a matter particularly affecting, that member is under consideration.

(i) The Executive Directors may appoint such committees as they deem advisable. Membership of such committees need not be limited to governors or directors or their alternates.

Sec. 5. President and staff

(a) The Executive Directors shall select a President who shall not be a governor or an Executive Director or an alternate for either. The President shall be Chairman of the Executive Directors, but shall have no vote except a deciding vote in case of an equal division. He may participate in meetings of the Board of Governors, but shall not vote at such meetings. The President shall cease to hold office when the Executive Directors so decide.

(b) The President shall be chief of the operating staff of the Bank and shall conduct, under the direction of the Executive Directors, the ordinary business of the Bank. Subject to the general control of the Executive Directors, he shall be responsible for the organization, appointment and dismissal of the officers and staff.

(c) The President, officers and staff of the Bank, in the discharge of their offices, owe their duty entirely to the Bank and to no other authority. Each member of the Bank shall respect the international character of this duty and shall refrain from all attempts to influence any of them in the discharge of their duties.

(d) In appointing the officers and staff the President shall, subject to the paramount importance of securing the highest standards of efficiency and of technical competence, pay due regard to the importance of recruiting personnel on as wide a geographical basis as possible.

Sec. 6. Advisory Council

(a) There shall be an Advisory Council of not less than seven persons selected by the Board of Governors including representatives of banking, commercial, industrial, labor, and agricultural interests, and with as wide a national representation as possible. In those fields where specialized international organizations exist, the members of the Council representative of those fields shall be elected in agreement with such organizations. The Council shall advise the Bank on matters of general policy. The Council shall meet annually and on such other occasions as the Bank may request.

(b) Councilors shall serve for two years and may be reappointed. They shall be paid their reasonable expenses incurred on behalf of the Bank.

Sec. 7. Loan Committees

The committees required to report on loans under Article III, Section 4, shall be appointed by the Bank. Each such committee shall include an expert selected by the governor representing the member in whose territories the project is located and one or more members of the technical staff of the Bank.

Sec. 8. Relationship to other international organizations

(a) The bank, within the terms of this Agreement, shall cooperate with any general international organization, and with public international organizations having specialized responsibilities in related fields. Any arrangements for such cooperation which would involve a modification of any provision of this Agreement may be affected only after amendment to this Agreement under Article VIII.

(b) In making decisions on applications for loans or guarantees relating to matters directly within the competence of any international organization of the types specified in the preceding paragraph and participated in primarily by members of the Bank, the Bank shall give consideration to the views and recommendations of such organization.

Sec. 9. Location of offices

(a) The principal office of the Banks shall be located in the territory of the member holding the greatest number of shares.

(b) The Bank may establish agencies or branch offices in the territories of any member of the Bank.

Sec. 10. Regional offices and councils

(a) The Bank may establish regional offices and determine the location of, and the areas to be covered by, each regional office.

(b) Each regional office shall be advised by a regional council representative of the entire area and selected in such manner as the Bank may decide.

Sec. 11. Depositories

(a) Each member shall designate its central bank as a depository for all the Bank's holdings of its currency or, if it has no central bank, it shall designate such other institution as may be acceptable to the Bank.

(b) The Bank may hold other assets, including gold, in depositories designated by the five members having the largest number of shares and in such other designated depositories as the Bank may select. Initially, at least one-half of the gold holdings of the Bank shall be held in the depository designated by the member in whose territory the Bank has its principal office, and at least forty percent shall be held in the depositories designated by the remaining four members referred to above, each of such depositors to hold, initially, not less than the amount of gold paid on the shares of the member designating it. However, all transfers of gold by the Bank shall be made with due regard to the costs of transport and anticipated requirements of the Bank. In an emergency the Executive Directors may transfer all or any part of the Bank's gold holdings to any place where they can be adequately protected.

Sec. 12. Form of holdings of currency

The Bank shall accept from any member, in place of any part of the member's currency, paid in to the Bank under Article II, Section 7(i), or to meet amortization payments on loans made with such currency, and not needed by the Bank in its operations, notes or similar obligations issued by the government of the member or the depository designated by such member, which shall be non-negotiable, non-interest-bearing and payable at their par value on demand by credit to the account of the Bank in the designated depository.

Sec. 13. Publication of reports and provision of information

(a) The Bank shall publish an annual report containing an audited statement of its accounts and shall circulate to members at intervals of three months or less a summary statement of its financial position and a profit and loss statement showing the results of its operations.

(b) The Bank may publish such other reports as it deems desirable to carry out its purposes.

(c) Copies of all reports, statements and publications made under this section shall be distributed to members.

Sec. 14. Allocation of net income

(a) The Board of Governors shall determine annually what part of the Bank's net income, after making provision for reserves, shall be allocated to surplus and what part, if any, shall be distributed.

(b) If any part is distributed, up to two percent non-cumulative shall be paid, as a first charge against the distribution for any year, to each member on the basis of the average amount of the loans outstanding during the year made under Article IV, Section 1(a)(i), out of currency corresponding to its subscription. If two percent is paid as a first charge, any balance remaining to be distributed shall be paid to all members in proportion to their shares. Payments to each member shall be made in its own currency, or if that currency is not available, in other currency acceptable to the member. If such payments are made in currencies other than the member's own currency, the transfer of the currency and its use by the receiving member after payment shall be without restriction by the members.

ARTICLE VI. WITHDRAWAL AND SUSPENSION OF MEMBERSHIP: SUSPENSION OF OPERATION

Section 1. Right of members to withdraw

Any member may withdraw from the Bank at any time by transmitting a notice in writing to the Bank at its principal office. Withdrawal shall become effective on the date such notice is received.

Sec. 2. Suspension of membership

If a member fails to fulfill any of its obligations to the Bank, the Bank may suspend its membership by decision of a majority of the governors, exercising a majority of the total voting power. The member so suspended shall automatically cease to be a member one year from the date of its suspension unless a decision is taken by the same majority to restore the member to good standing.

While under suspension, a member shall not be entitled to exercise any rights under this Agreement, except the right to withdrawal, but shall remain subject to all obligations.

Sec. 3. Cessation of membership in International Monetary Fund

Any member which ceases to be a member of the International Monetary Fund shall automatically cease after three months to be a member of the Bank unless the Bank by three-fourths of the total voting power has agreed to allow it to remain a member.

Sec. 4. Settlement of accounts with governments ceasing to be members

(a) When a government ceases to be a member, it shall remain liable for its direct obligations to the Bank and for its contingent liabilities to the Bank so long as any part of the loans or guarantees contracted before it ceased to be a member are outstanding; but it shall cease to incur liabilities with respect to loans and guarantees entered into thereafter by the Bank and to share either in the income or the expenses of the Bank.

(b) At the time a government ceases to be a member, the Bank shall arrange for the purchase of its share as a part of the settlement of accounts with such government in accordance with the provisions of (c) and (d) below. For this purpose the repurchase price of the shares shall be the value shown by the books of the Bank on the day the government ceases to be a member.

(c) The payment for shares repurchased by the Bank under this section shall be governed by the following conditions:

(i) Any amount due to the government for its shares shall be withheld so long as the government, its central bank or any of its agencies remains liable, as borrower or guarantor, to the Bank and such amount may, at the option of the Bank, be applied on any such liability as it matures. No amount shall be withheld on account of the liability of the government resulting from its subscription for shares under Article II, Section 5(ii). In any event, no amount due to a member for its shares shall be paid until six months after the date upon which the government ceases to be a member.

(ii) Payments for shares may be made from time to time, upon their surrender by the government, to the extent by which the amount due as the repurchase price in (b) above exceeds the aggregate of liabilities on loans and guarantees in (c)(i) above until the former member has received the full repurchase price.

(iii) Payments shall be made in the currency of the country receiving payment or at the option of the Bank in gold.

(iv) If losses are sustained by the Bank on any guarantees, participation in loans, or loans which were outstanding on the date when the government ceased to be a member, and the amount of such losses exceeds the amount of the reserve provided against losses on the date when the government ceased to be a member, such government shall be obligated to repay upon demand the amount by which the repurchase price of its shares would have been reduced, if the losses had been taken into account when the repurchase price was determined. In addition, the former member government shall remain liable on any call for unpaid subscriptions under Article II, Section 5(ii), to the extent that it would have been required to respond if the impairment of capital had occurred and the call had been made at the time the repurchase price of its shares was determined.

(d) If the Bank suspends permanently its operations under Section 5(b) of this Article, within six months of the date upon which any government ceases to be a member, all rights of such government shall be determined by the provisions of Section 5 of this Article.

Sec. 5. Suspension of operations and settlement of obligations

(a) In an emergency the Executive Directors may suspend temporarily operations in respect to new loans and guarantees pending an opportunity for further consideration and action by the Board of Governors.

(b) The Bank may suspend permanently its operations in respect of new loans and guarantees by vote of a majority of the Governors, exercising a majority of the total voting power. After such suspension of operations the Bank shall forthwith cease all activities, except those incident to the orderly realization, conservation, and preservation of its assets and settlement of its obligations.

(c) The liability of all members for uncalled subscriptions to the capital stock of the Bank and in respect of the depreciation of their own currencies shall continue until all claims of creditors, including all contingent claims shall have been discharged.

(d) All creditors holding direct claims shall be paid out of the assets of the Bank, and then out of payments to the Bank on calls on unpaid subscriptions. Before making any payments to creditors holding direct claims the Executive Directors shall make such arrangements as are necessary, in their judgment, to insure a distribution to holders of contingent claims ratably with creditors holding direct claims.

(e) No distribution shall be made to members on account of their subscriptions to the capital stock of the Bank until—

(i) all liabilities to creditors have been discharged or provided for, and

(ii) a majority of the governors, exercising a majority of the total voting power, have decided to make a distribution.

(f) After a decision to make a distribution has been taken under (e) above, the Executive Directors, may by a two-thirds majority vote, make successive distributions of the assets of the Bank to members until all of the assets have been distributed. This distribution shall be subject to the prior settlement of all outstanding claims of the Bank against each member.

(g) Before any distribution of assets is made, the Executive Directors shall fix the proportionate share of each member according to the ratio of its shareholding to the total outstanding shares of the Bank.

(h) The Executive Directors shall value the assets to be distributed as at the date of distribution and then proceed to distribute in the following manner:

(i) There shall be paid to each member in its own obligations or those of its official agencies or legal entities within its territories, insofar as they are available for distribution, an amount equivalent in value to its proportionate share of the total amount to be distributed.

(ii) Any balance due to a member after payment has been made under (i) above shall be paid, in its own currency, insofar as it is held by the Bank, up to an amount equivalent in value to such balance.

(iii) Any balance due to a member after payment has been made under (i) and (ii) above shall be paid in gold or currency acceptable to the member, insofar as they are held by the Bank, up to an amount equivalent in value to such balance.

(iv) Any remaining assets held by the Bank after payments have been made to members under (i), (ii), and (iii) above shall be distributed *pro rata* among the members.

(i) Any member receiving assets distributed by the Bank in accordance with (h) above, shall enjoy the same rights with respect to such assets as the Bank enjoyed prior to their distribution.

ARTICLE VII. STATUS, IMMUNITIES AND PRIVILEGES

Section 1. Purposes of Article

To enable the Bank to fulfill the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Bank in the territories of each member.

Sec. 2. Status of the Bank

The Bank shall possess full juridical personality, and, in particular the capacity—

(i) to contract;

(ii) to acquire and dispose of immovable and movable property;

(iii) to institute legal proceedings.

Sec. 3. Position of the Bank with regard to judicial process

Actions may be brought against the Bank only in a court of compentent jurisdiction in the territories of a member in which the Bank has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Bank shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank.

Sec. 4. Immunity of assets from seizure

Property and assets of the Bank, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

Sec. 5. Immunity of archives

The archives of the Bank shall be inviolable.

Sec. 6. Freedom of assets from restrictions

To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of this Agreement, all property and assets of the Bank shall be free from restrictions, regulations, controls, and moratoria of any nature.

Sec. 7. Privilege for communications

The official communications of the Bank shall be accorded by each member the same treatment that it accords to the official communications of other members.

Sec. 8. Immunities and privileges of officers and employees

All governors, executive directors, alternates, officers and employees of the Bank—

(i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Bank waives this immunity;

(ii) not being local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials, and employees of comparable rank of other members;

(iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

Sec. 9. Immunities from taxation

(a) The Bank, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Bank shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to executive directors, alternates, officials or employees of the Bank who are not local citizens, local subjects, or other local nationals.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Bank (including any dividend or interest thereon) by whomsoever held—

(i) Which discriminates against such obligation or security solely because it is issued by the Bank; or

(ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank.

(d) No taxation of any kind shall be levied on any obligation or security guaranteed by the bank (including any dividend or interest thereon) by whomsoever held—

(i) which discriminates against such obligation or security solely because it is guaranteed by the Bank; or

(ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.

Sec. 10. Application of Article

Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this Article and shall inform the Bank of the detailed action which it has taken.

ARTICLE VIII. AMENDMENTS

(a) Any proposal to introduce modifications in this Agreement, whether emanating from a member, a governor or the Executive Directors, shall be communicated to the Chairman of the Board of Governors who shall bring the proposal before the Board. If the proposed amendment is approved by the Board the Bank shall, by circular letter or telegram, ask all members whether they accept the proposed amendment. When three-fifths of the members having four-fifths of the total voting power, have accepted the proposed amendments, the Bank shall certify the fact by formal communication address to all members.

(b) Notwithstanding (a) above, acceptance by all members is required in the case of any amendment modifying—

(i) the right to withdraw from the Bank provided in Article VI, Section 1;

(ii) the right secured by Article II, Section 3(c);

(iii) the limitation on liability provided in Article II, Section 6.

(c) Amendments shall enter into force for all members three months after the date of the formal communication unless a shorter period is specified in the circular letter or telegram.

ARTICLE IX. INTERPRETATION

(a) Any question of interpretation of the provisions of this Agreement arising between any member and the Bank or between any members of the Bank shall be submitted to the Executive Directors for their decision. If the question particularly affects any member not entitled to appoint an executive director, it shall be entitled to representation in accordance with Article V, Section 4(h).

(b) In any case where the Executive Directors have given a decision under (a) above, any member may require that the question be referred to the Board of Governors, whose decision shall be final. Pending the result of the reference to the Board, the Bank may, so far as it deems necessary, act on the basis of the decision of the Executive Directors.

(c) Whenever a disagreement arises between the Bank and a country which has ceased to be a member, or between the Bank and any member during the permanent suspension of the Bank, such disagreement shall be submitted to arbitration by a tribunal of three arbitrators, one appointed by the Bank, another by the country involved and an umpire who, unless the parties otherwise agree, shall be appointed by the President of the Permanent Court of International Justice or such other authority as may have been prescribed by regulation adopted by the Bank. The umpire shall have full power to settle all questions of procedure in any case where the parties are in disagreement with respect thereto.

ARTICLE X. APPROVAL DEEMED GIVEN

Whenever the approval of any member is required before any act may be done by the Bank, except in Article VIII, approval shall be deemed to have been given unless the member presents an objection within such reasonable period as the Bank may fix in notifying the member of the proposed act.

ARTICLE XI. FINAL PROVISIONS

Section 1. Entry into force

This Agreement shall enter into force when it has been signed on behalf of governments whose minimum subscriptions comprise not less than sixty-five percent of the total subscriptions set forth in Schedule A and when the instruments referred to in Section 2(a) of this Article have been deposited on their behalf, but in no event shall this Agreement enter into force before May 1, 1945.

Sec. 2. Signature

(a) Each government on whose behalf this Agreement is signed shall deposit with the Government of the United States of America an instrument setting forth that it has accepted this Agreement in accordance with its law and has taken all steps necessary to enable it to carry out all of its obligations under this Agreement.

(b) Each government shall become a member of the Bank as from the date of the deposit on its behalf of the instrument referred to in (a) above, except that no government shall become a member before this Agreement enters into force under Section 1 of this Article.

(c) The Government of the United States of America shall inform the governments of all countries whose names are set forth in Schedule A, and all governments whose membership is approved in accordance with Article II, Section 1(b), of all signatures of this Agreement and of the deposit of all instruments referred to in (a) above.

(d) At the time this Agreement is signed on its behalf, each government shall transmit to the Government of the United States of America one one-hundredth of one percent of the price of each share in gold or United States dollars for the purpose of meeting administrative expenses of the Bank. This payment shall be credited on account of the payment to be made in accordance with Article II, Section 8(a). The Government of the United States of America shall hold such funds in a special deposit account and shall transmit them to the Board of Governors of the Bank when the initial meeting has been called under Section 3 of this Article. If this Agreement has not come into force by December 31, 1945, the Government of the United States of America shall return such funds to the governments that transmitted them.

(e) This Agreement shall remain open for signature at Washington on behalf of the governments of the countries whose names are set forth in Schedule A until December 31, 1945.

(f) After December 31, 1945, this Agreement shall be open for signature on behalf of the government of any country whose membership has been approved in accordance with Article II, Section 1(b).

(g) By their signature of this Agreement, all governments accept it both on their own behalf and in respect of all their colonies, overseas territories, all territories under their protection, suzerainty, or authority and all territories in respect of which they exercise a mandate.

(h) In the case of governments whose metropolitan territories have been under enemy occupation, the deposit of the instrument referred to in (a) above may be delayed until one hundred and eighty days after the date on which these territories have been liberated. If, however, it is not deposited by any such government before the expiration of this period, the signature affixed on behalf of that government shall become void and the portion of its subscription paid under (d) above shall be returned to it.

(i) Paragraphs (d) and (h) shall come into force with regard to each signatory government as from the date of its signature.

Sec. 3. Inauguration of the Bank

(a) As soon as this Agreement enters into force under Section 1 of this Article, each member shall appoint a governor and the member to whom the largest number of shares is allocated in Schedule A shall call the first meeting of the Board of Governors.

(b) At the first meeting of the Board of Governors, arrangements shall be made for the selection of provisional executive directors. The governments of the five countries, to which the largest number of shares are allocated in Schedule A, shall appoint provisional executive directors. If one or more of such governments have not become members, the executive directorships which they would be entitled to fill shall remain vacant until they become members, or until January 1, 1946, whichever is the earlier. Seven provisional executive directors shall be elected in accordance with the provisions of Schedule B and shall remain in office until the date of the first regular election of executive directors which shall be held as soon as practicable after January 1, 1946.

(c) The Board of Governors may delegate to the provisional executive directors any powers except those which may not be delegated to the Executive Directors.

(d) The Bank shall notify members when it is ready to commence operations.

DONE at Washington, in a single copy which shall remain deposited in the Archives of the Government of the United States of America, which shall transmit certified copies to all governments whose names are set forth in Schedule A and to all governments whose Membership is approved in accordance with Article II, Section 1(b).

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SCHEDULE B. ELECTION OF EXECUTIVE DIRECTORS

1. The election of the elective executive directors shall be by ballot of the governors eligible to vote under Article V, Section 4(b).

2. In balloting for the elective executive directors, each governor eligible to vote shall cast for one person all of the votes to which the member appointing him is entitled under Section 3 of Article V. The seven persons receiving the greatest number of votes shall be executive directors, except that no person who receives less than fourteen percent of the total of the votes which can be cast (eligible votes) shall be considered elected.

3. When seven persons are not elected on the first ballot, a second ballot shall be held in which the person who received the lowest number of votes shall be ineligible for election and in which there shall vote only (a) those governors who voted in the first ballot for a person not elected and (b) those governors whose votes for a person elected are deemed under 4 below to have raised the votes cast for that person above fifteen percent of the eligible votes.

4. In determining whether the votes cast by a governor are to be deemed to have raised the total of any person above fifteen percent of the eligible votes, the fifteen percent shall be deemed to include, first, the votes of the governor casting the largest number of votes for such person, then the votes of the governor casting the next largest number, and so on until fifteen percent is reached.

5. Any governor, part of whose votes must be counted in order to raise the total of any person above fourteen percent, shall be considered as casting all of his votes for such person even if the total votes for such person thereby exceed fifteen percent.

6. If, after the second ballot, seven persons have not been elected, further ballots shall be held on the same principles until seven persons have been elected, provided that after six persons are elected, the seventh may be elected by a simple majority of the remaining votes and shall be deemed to have been elected by all such votes.

3. Articles of Agreement of the International Finance Corporation (amended)

CONTENTS

Page
Introductory Article 460
I. Purpose 460
II. Membership and Capital 460
  1. Membership 460
  2. Capital Stock 461
  3. Subscriptions 461
  4. Limitation on Liability 462
  5. Restriction on Transfers and Pledges of Shares 462
III. Operations 462
  1. Financing Operations 462
  2. Forms of Financing 462
  3. Operational Principles 462
  4. Protection of Interests 463
  5. Applicability of Certain Foreign Exchange Restrictions 463
  6. Miscellaneous Operations 463
  7. Valuation of Currencies 464
  8. Warning To Be Placed on Securities 464
  9. Political Activity Prohibited 464
IV. Organization and Management 464
  1. Structure of the Corporation 464
  2. Board of Governors 464
  3. Voting 465
  4. Board of Directors 465
  5. Chairman, President and Staff 466
  6. Relationship to the Bank 467
  7. Relations with other International Organizations 467
  8. Location of Offices 467
  9. Depositories 467
  10. Channel of Communication 467
  11. Publication of Reports and Provision of Information 467
  12. Dividends 468
V. Withdrawal; Suspension of Membership; Suspension of Operations 468
  1. Withdrawal by Members 468
  2. Suspension of Membership 468
  3. Suspension or Cessation of Membership in the Bank 468
  4. Rights and Duties of Governments Ceasing to be Members 468
  5. Suspension of Operations and Settlement of Obligations 469
VI. Status, Immunities and Privileges 470
  1. Purposes of Article 470
  2. Status of the Corporation 470
  3. Position of the Corporation with Regard to Judicial Process 470
  4. Immunity of Assets from Seizure 470
  5. Immunity of Archives 470
  6. Freedom of Assets from Restrictions 471
  7. Privilege for Communications 471
  8. Immunities and Privileges of Officers and Employees 471
  9. Immunities from Taxation 471
  10. Application of Article 472
  11. Waiver 472
VII. Amendments 472
VIII. Interpretation and Arbitration 472

Page
IX. Final Provisions 473
  1. Entry Into Force 473
  2. Signature 473
  3. Inauguration of the Corporation 473

3. Articles of Agreement [1] (amended) [2]

Open for Signature at the International Bank for Reconstruction and Development, Washington. Signed on behalf of the United States of America December 5, 1955; Acceptance of the United States of America deposited December 5, 1955; Entered into force July 20, 1956.[1] Amended September 1, 1961 [2] and August 25, 1965 [2]

The governments on whose behalf this Agreement is signed agree as follows:

INTRODUCTORY ARTICLE

The International Finance Corporation (hereinafter called the Corporation) is established and shall operate in accordance with the following provisions:

ARTICLE I. PURPOSE

The purpose of the Corporation is to further economic development by encouraging the growth of productive private enterprise in member countries, particularly in the less developed areas, thus supplementing the activities of the International Bank for Reconstruction and Development (hereinafter called the Bank). In carrying out this purpose, the Corporation shall—

(i) in association with private investors, assist in financing the establishment, improvement and expansion of productive private enterprises which would contribute to the development of its member countries by making investments, without guarantee of repayment by the member government concerned, in cases where sufficient private capital is not available on reasonable terms;

(ii) seek to bring together investment opportunities, domestic and foreign private capital, and experienced management; and

(iii) seek to stimulate, and to help create conditions conducive to, the flow of private capital, domestic and foreign, into productive investment member countries.

The Corporation shall be guided in all its decisions by the provisions of this Article.

ARTICLE II. MEMBERSHIP AND CAPITAL

Section 1. Membership

(a) The original members of the Corporation shall be those members of the Bank listed in Schedule A hereto which shall, on or before the date specified in Article IX, Section 2(c), accept membership in the Corporation.

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[1] 7 UST 2197; TIAS 3620; 264 UNTS 117. For a list of states which are parties to the Corporation, see Department of State publication, *Treaties in Force.*

[2] Amendments:
September 1, 1961 (12 UST 2945; TIAS 4894; 439 UNTS 318).
September 1, 1965 (24 UST 1760; TIAS 7683).

(b) Membership shall be open to other members of the Bank at such times and in accordance with such terms as may be prescribed by the Corporation.

Sec. 2. Capital Stock

(a) The authorized capital stock of the Corporation shall be $100,000,000, in terms of United States dollars.[3]

(b) The authorized capital stock shall be divided into 100,000 shares having a par value of one thousand United States dollars each. Any such shares not initially subscribed by original members shall be available for subsequent subscription in accordance with Section 3(d) of this Article.

(c) The amount of capital stock at any time authorized may be increased by the Board of Governors as follows:

(i) by a majority of the votes cast, in case such increase is necessary for the purpose of issuing shares of capital stock on initial subscription by members other than original members, provided that the aggregate of any increases authorized pursuant to this subparagraph shall not exceed 10,000 shares;

(ii) in any other case, by a three-fourths majority of the total voting power.

(d) In case of an increase authorized pursuant to paragraph (c)(ii) above, each member shall have a reasonable opportunity to subscribe, under such conditions as the Corporation shall decide, to a proportion of the increase of stock equivalent to the proportion which its stock theretofore subscribed bears to the total capital stock of the Corporation, but no member shall be obligated to subscribe to any part of the increased capital.

(e) Issuance of shares of stock, other than those subscribed either on initial subscription or pursuant to paragraph (d) above, shall require a three-fourths majority of the total voting power.

(f) Shares of stock of the Corporation shall be available for subscription only by, and shall be issued only to, members.

Sec. 3. Subscriptions

(a) Each original member shall subscribe to the number of shares of stock set forth opposite its name in Schedule A. The number of shares of stock to be subscribed by other members shall be determined by the Corporation.

(b) Shares of stock initially subscribed by original members shall be issued at par.

(c) The initial subscription of each original member shall be payable in full within 30 days after either the date on which the Corporation shall begin operations pursuant to Article IX, Section 3(b), or the date on which such original member becomes a member, whichever shall be later, or at such date thereafter as the Corporation shall determine. Payment shall be made in gold or United

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[3] On September 3, 1963, the authorized capital stock was increased to $110,000,000, divided into 110,000 shares of $1,000 each. In 1977 the authorized capital was increased by $540,000,000 bringing the total to $650,000,000, divided into 650,000 shares of $1,000 each. In 1984, authorized capital stock was increased by an additional $650 million (thereby doubling IFC capital stock).

States dollars in response to a call by the Corporation which shall specify the place or places of payment.

(d) The price and other terms of subscription of shares of stock to be subscribed, otherwise than on initial subscription by original members, shall be determined by the Corporation.

Sec. 4. Limitation on Liability

No member shall be liable, by reason of its membership, for obligations of the Corporation.

Sec. 5. Restriction on Transfers and Pledges of Shares

Shares of stock shall not be pledged or encumbered in any manner whatever, and shall be transferable only to the Corporation.

ARTICLE III. OPERATIONS

Section 1. Financing Operations

The Corporation may make investments of its funds in productive private enterprises in the territories of its members. The existence of a government or other public interest in such an enterprise shall not necessarily preclude the Corporation from making an investment therein.

Sec. 2.[4] Forms of Financing

The Corporation may make investments of its funds in such form or forms as it may deem appropriate in the circumstances.[3]

Sec. 3. Operational Principles

The operations of the Corporation shall be conducted in accordance with the following principles:

(i) the Corporation shall not undertake any financing for which in its opinion sufficient private capital could be obtained on reasonable terms;

(ii) the Corporation shall not finance an enterprise in the territories of any member if the member objects to such financing;

(iii) the Corporation shall impose no conditions that the proceeds of any financing by it shall be spent in the territories of any particular country;

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[4] Amended language. The purpose of the amended language is to authorize the Corporation to make investments of its funds in capital stock and to limit the exercise of voting rights by the Corporation unless exercise of such rights is deemed necessary by the Corporation to protect its interests. (See section 5 of the International Finance Corporation Act, Vol. II, See. H.)

The resolution to amend the Articles was adopted on September 1, 1961, and on September 21, 1961, the Governors resolved that the amendment should be effective forthwith.

Section 2 formerly read as follows:

"(a) The Corporation's financing shall not take the form of investments in capital stock. Subject to the foregoing, the Corporation may make investments of its funds in such form or forms as it may deem appropriate in the circumstances, including (but without limitation) investments according to the holder thereof the right to participate in earnings, and the right to subscribe to, or to convert the investment into, capital stock.

"(b) The Corporation shall not itself exercise any right to subscribe to, or convert any investment into, capital stock.".

Section 3(iv) formerly read: "the Corporation shall not assume responsibility for managing any enterprise in which it has invested.".

(iv) the Corporation shall not assume responsibility for managing any enterprise in which it has invested and shall not exercise voting rights for such purpose or for any other purpose which, in its opinion, properly is within the scope of managerial control;[4]

(v) the Corporation shall undertake its financing on terms and conditions which it considers appropriate, taking into account the requirements of the enterprise, the risks being undertaken by the Corporation and the terms and conditions normally obtained by private investors for similar financing;

(vi) the Corporation shall seek to revolve its funds by selling its investments to private investors whenever it can appropriately do so on satisfactory terms;

(vii) the Corporation shall seek to maintain a reasonable diversification in its investments.

Sec. 4. Protection of Interests

Nothing in this Agreement shall prevent the Corporation, in the event of actual or threatened default on any of its investments, actual or threatened insolvency of the enterprise in which such investment shall have been made, or other situations which, in the opinion of the Corporation, threaten to jeopardize such investment, from taking such action and exercising such rights as it may deem necessary for the protection of its interests.

Sec. 5. Applicability of Certain Foreign Exchange Restrictions

Funds received by or payable to the Corporation in respect of an investment of the Corporation made in any member's territories pursuant to Section 1 of this Article shall not be free, solely by reason of any provision of this Agreement, from general applicable foreign exchange restrictions, regulations and controls in force in the territories of that member.

Sec. 6. Miscellaneous Operations

In addition to the operations specified elsewhere in this Agreement, the Corporation shall have the power to—

(i) borrow funds, and in that connection to furnish such collateral or other security therefor as it shall determine; provided, however, that before making a public sale of its obligations in the markets of a member, the Corporation shall have obtained the approval of that member and of the member in whose currency the obligations are to be denominated; if and so long as the Corporation shall be indebted on loans from or guaranteed by the Bank, the total amount outstanding of borrowings incurred or guarantees given by the Corporation shall not be increased if, at the time or as a result thereof, the aggregate amount of debt (including the guarantee of any debt) incurred by the Corporation from any source and then outstanding shall exceed an amount equal to four times its unimpaired subscribed capital and surplus;[5]

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[5] This clause was added by an amendment adopted August 25, 1965.

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(ii) invest funds not needed in its financing operations in such obligations as it may determine and invest funds held by it for pension or similar purposes in any marketable securities, all without being subject to the restrictions imposed by other sections of this Article;

(iii) guarantee securities in which it has invested in order to facilitate their sale;

(iv) buy and sell securities it has issued or guaranteed or in which it has invested;

(v) exercise such other powers incidental to its business as shall be necessary or desirable in furtherance of its purposes.

Sec. 7. Valuation of Currencies

Whenever it shall become necessary under this Agreement to value any currency in terms of the value of another currency, such valuation shall be as reasonably determined by the Corporation after consultation with the International Monetary Fund.

Sec. 8. Warning To Be Placed on Securities

Every security issued or guaranteed by the Corporation shall bear on its face a conspicuous statement to the effect that it is not an obligation of the Bank or, unless expressly stated on the security, of any government.

Sec. 9. Political Activity Prohibited

The Corporation and its officers shall not interfere in the political affairs of any member; nor shall they be influenced in their decisions by the political character of the member or members concerned. Only economic considerations shall be relevant to their decisions, and these considerations shall be weighed impartially in order to achieve the purposes stated in this Agreement.

ARTICLE IV. ORGANIZATION AND MANAGEMENT

Section 1. Structure of the Corporation

The Corporation shall have a Board of Governors, a Board of Directors, a Chairman of the Board of Directors, a President and such other officers and staff to perform such duties as the Corporation may determine.

Sec. 2. Board of Governors

(a) All the powers of the Corporation shall be vested in the Board of Governors.

(b) Each governor and alternate governor of the Bank appointed by a member of the Bank which is also a member of the Corporation shall *ex officio* be a Governor or Alternate Governor, respectively, of the Corporation. No Alternate Governor may vote except in the absence of his principal. The Board of Governors shall select one of the Governors as Chairman of the Board of Governors. Any Governor or Alternate Governor shall cease to hold office if the member by which he was appointed shall cease to be a member of the Corporation.

(c) The Board of Governors may delegate to the Board of Directors authority to exercise any of its powers, except the power to—

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(i) admit new members and determine the conditions of their admission;

(ii) increase or decrease the capital stock;

(iii) suspend a member;

(iv) decide appeals from interpretation of this Agreement given by the Board of Directors;

(v) make arrangements to cooperate with other international organizations (other than informal arrangements of a temporary and administrative character);

(vi) decide to suspend permanently the operations of the Corporation and to distribute its assets;

(vii) declare dividends;

(viii) amend this Agreement.

(d) The Board of Governors shall hold an annual meeting and such other meetings as may be provided for by the Board of Governors or called by the Board of Directors.

(e) The annual meeting of the Board of Governors shall be held in conjunction with the annual meeting of the Board of Governors of the Bank.

(f) A quorum for any meeting of the Board of Governors shall be a majority of the governors, exercising not less than two-thirds of the total voting power.

(g) The Corporation may by regulation establish a procedure whereby the Board of Directors may obtain a vote of the governors on a specific question without calling a meeting of the Board of Governors.

(h) The Board of Governors, and the Board of Directors to the extent authorized, may adopt such rules and regulations as may be necessary or appropriate to conduct the business of the Corporation.

(i) Governors and Alternate Governors shall serve as such without compensation from the Corporation.

Sec. 3. Voting

(a) Each member shall have two hundred and fifty votes plus one additional vote for each share of stock held.

(b) Except as otherwise expressly provided, all matters before the Corporation shall be decided by a majority of the votes cast.

Sec. 4. Board of Directors

(a) The Board of Directors shall be responsible for the conduct of the general operations of the Corporation, and for this purpose shall exercise all the powers given to it by this Agreement or delegated to it by the Board of Governors.

(b) The Board of Directors of the Corporation shall be composed *ex officio* of each Executive Director of the Bank who shall have been either (i) appointed by a member of the Bank which is also a member of the Corporation, or (ii) elected in an election in which the votes of at least one member of the Bank which is also a member of the Corporation shall have counted toward his election. The Alternate to each such Executive Director of the Bank shall *ex officio* be an Alternate Director of the Corporation. Any Director shall cease to hold office if the member by which he was appointed, or if all the members whose votes counted toward his election, shall cease to be members of the Corporation.

(c) Each Director who is an appointed Executive Director of the Bank shall be entitled to cast the number of votes which the member by which he was so appointed is entitled to cast in the Corporation. Each Director who is an elected Executive Director of the Bank shall be entitled to cast the number of votes which the member or members of the Corporation whose votes counted toward his election in the Bank are entitled to cast in the Corporation. All the votes which a director is entitled to cast shall be cast as a unit.

(d) An Alternate Director shall have full power to act in the absence of the Director who shall have appointed him. When a Director is present his Alternate may participate in meetings but shall not vote.

(e) A quorum for any meeting of the Board of Directors shall be a majority of the Directors exercising not less than one-half of the total voting power.

(f) The Board of Directors shall meet as often as the business of the Corporation may require.

(g) The Board of Governors shall adopt regulations under which a member of the Corporation not entitled to appoint an Executive Director of the Bank may send a representative to attend any meeting of the Board of Directors of the Corporation when a request made by, or a matter particularly affecting, that member is under consideration.

Sec. 5. Chairman, President and Staff

(a) The President of the Bank shall be *ex officio* Chairman of the Board of Directors of the Corporation, but shall have no vote except a deciding vote in case of an equal division. He may participate in meetings of the Board of Governors but shall not vote at such meetings.

(b) The President of the Corporation shall be appointed by the Board of Directors on the recommendation of the Chairman. The President shall be chief of the operating staff of the Corporation. Under the direction of the Board of Directors and the general supervision of the Chairman, he shall conduct the ordinary business of the Corporation and under their general control shall be responsible for the organization, appointment and dismissal of the officers and staff. The President may participate in meetings of the Board of Directors but shall not vote at such meetings. The President shall cease to hold office by decision of the Board of Directors in which the Chairman concurs.

(c) The President, officers and staff of the Corporation, in the discharge of their offices, owe their duty entirely to the Corporation and to no other authority. Each member of the Corporation shall respect the international character of this duty and shall refrain from all attempts to influence any of them in the discharge of their duties.

(d) Subject to the paramount importance of securing the highest standards of efficiency and of technical competence, due regard shall be paid, in appointing the officers and staff of the Corporation, to the importance of recruiting personnel on as wide a geographical basis as possible.

Sec. 6. Relationship to the Bank

(a) The Corporation shall be an entity separate and distinct from the Bank and the funds of the Corporation shall be kept separate and apart from those of the Bank.[6] The provisions of this section shall not prevent the Corporation from making arrangements with the Bank regarding facilities, personnel and services and arrangements for reimbursement of administrative expenses paid in the first instance by either organization on behalf of the other.

(b) Nothing in this Agreement shall make the Corporation liable for the acts or obligations of the Bank, or the Bank liable for the acts or obligations of the Corporation.

Sec. 7. Relations With Other International Organizations

The Corporation, acting through the Bank, shall enter into formal arrangements with the United Nations, and may enter into such arrangements with other public international organizations having specialized responsibilities in related fields.

Sec. 8. Location of Offices

The principal office of the Corporation shall be in the same locality as the principal office of the Bank. The Corporation may establish other offices in the territories of any member.

Sec. 9. Depositories

Each member shall designate its central bank as a depository in which the Corporation may keep holdings of such member's currency or other assets of the Corporation or, if it has no central bank, it shall designate for such purpose such other institution as may be acceptable to the Corporation.

Sec. 10. Channel of Communication

Each member shall designate an appropriate authority with which the Corporation may communicate in connection with any matter arising under this Agreement.

Sec. 11. Publication of Reports and Provision of Information

(a) The Corporation shall publish an annual report containing an audited statement of its accounts and shall circulate to members at appropriate intervals a summary statement of its financial position and a profit and loss statement showing the results of its operations.

(b) The Corporation may publish such other reports as it deems desirable to carry out its purposes.

(c) Copies of all reports, statements and publications made under this section shall be distributed to members.

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[6] Original text included the following: "The Corporation shall not lend to or borrow from the Bank.". Amendment adopted August 25, 1965, deleted this sentence.

Sec. 12. Dividends

(a) The Board of Governors may determine from time to time what part of the Corporation's net income and surplus, after making appropriate provision for reserves, shall be distributed as dividends.

(b) Dividends shall be distributed *pro rata* in proportion to capital stock held by members.

(c) Dividends shall be paid in such manner and in such currency or currencies as the Corporation shall determine.

ARTICLE V. WITHDRAWAL; SUSPENSION OF MEMBERSHIP; SUSPENSION OF OPERATIONS

Section 1. Withdrawal by Members

Any member may withdraw from membership in the Corporation at any time by transmitting a notice in writing to the Corporation at its principal office. Withdrawal shall become effective upon the date such notice is received.

Sec. 2. Suspension of Membership

(a) If a member fails to fulfill any of its obligations to the Corporation, the Corporation may suspend its membership by decision of a majority of the governors, exercising a majority of the total voting power. The member so suspended shall automatically cease to be a member one year from the date of its suspension unless a decision is taken by the same majority to restore the member to good standing.

(b) While under suspension, a member shall not be entitled to exercise any rights under this Agreement except the right of withdrawal, but shall remain subject to all obligations.

Sec. 3. Suspension or Cessation of Membership in the Bank

Any member which is suspended from membership in, or ceases to be a member of, the Bank shall automatically be suspended from membership in, or cease to be a member of, the Corporation, as the case may be.

Sec. 4. Rights and Duties of Governments Ceasing To Be Members

(a) When a government ceases to be a member it shall remain liable for all amounts due from it to the Corporation. The Corporation shall arrange for the repurchase of such government's capital stock as a part of the settlement of accounts with it in accordance with the provisions of this section, but the government shall have no other rights under this Agreement except as provided in this section and in Article VIII(c).

(b) The Corporation and the government may agree on the repurchase of the capital stock of the government on such terms as may be appropriate under the circumstances, without regard to the provisions of paragraph (c) below. Such agreement may provide, among other things, for a final settlement of all obligations of the government to the Corporation.

(c) If such agreement shall not have been made within six months after the government ceases to be a member or such other time as the Corporation and such government may agree, the repurchase price of the government's capital stock shall be the value thereof shown by the books of the Corporation on the day when the government ceases to be a member. The repurchase of the capital stock shall be subject to the following conditions:

(i) payments for shares of stock may be made from time to time, upon their surrender by the government, in such installments, at such times and in such available currency or currencies as the Corporation reasonably determines, taking into account the financial position of the Corporation;

(ii) any amount due to the government for its capital stock shall be withheld so long as the government or any of its agencies remains liable to the Corporation for payment of any amount and such amount may, at the option of the Corporation, be set off, as it becomes payable, against the amount due from the Corporation;

(iii) if the Corporation sustains a net loss on the investments made pursuant to Article III, Section 1, and held by it on the date when the government ceases to be a member, and the amount of such loss exceeds the amount of the reserves provided therefor on such date, such government shall repay on demand the amount by which the repurchase price of its shares of stock would have been reduced if such loss had been taken into account when the repurchase price was determined

(d) In no event shall any amount due to a government for its capital stock under this section be paid until six months after the date upon which the government ceases to be a member. If within six months of the date upon which any government ceases to be a member the Corporation suspends operations under Section 5 of this Article, all rights of such government shall be determined by the provisions of such Section 5 and such government shall be considered still a member of the Corporation for purposes of such Section 5, except that it shall have no voting rights.

Sec. 5. Suspension of Operations and Settlement of Obligations

(a) The Corporation may permanently suspend its operations by vote of a majority of the Governors exercising a majority of the total voting power. After such suspension of operations the Corporation shall forthwith cease all activities, except those incident to the orderly realization, conservation and preservation of its assets and settlement of its obligations. Until final settlement of such obligations and distribution of such assets, the Corporation shall remain in existence and all mutual rights and obligations of the Corporation and its members under this Agreement shall continue unimpaired, except that no member shall be suspended or withdraw and that no distribution shall be made to members except as in this section provided.

(b) No distribution shall be made to members on account of their subscriptions to the capital stock of the Corporation until all liabilities to creditors shall have been discharged or provided for and until the Board of Governors, by vote of a majority of the Governors exercising a majority of the total voting power, shall have decided to make such distribution.

(c) Subject to the foregoing, the Corporation shall distribute the assets of the Corporation to members *pro rata* in proportion to capital stock held by them, subject, in the case of any member, to prior settlement of all outstanding claims by the Corporation against such member. Such distribution shall be made at such times, in such currencies, and in cash or other assets as the Corporation shall deem fair and equitable. The shares distributed to the several members need not necessarily be uniform in respect of the type of assets distributed or of the currencies in which they are expressed.

(d) Any member receiving assets distributed by the Corporation pursuant to this section shall enjoy the same rights with respect to such assets as the Corporation enjoyed prior to their distribution.

ARTICLE VI. STATUS, IMMUNITIES AND PRIVILEGES

Section 1. Purposes of Article

To enable the Corporation to fulfill the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Corporation in the territories of each member.

Sec. 2. Status of the Corporation

The Corporation shall possess full juridical personality and, in particular, the capacity—

(i) to contract;

(ii) to acquire and dispose of immovable and movable property;

(iii) to institute legal proceedings.

Sec. 3. Position of the Corporation With Regard to Judicial Process

Actions may be brought against the Corporation only in a court of competent jurisdiction in the territories of a member in which the Corporation has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Corporation shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Corporation.

Sec. 4. Immunity of Assets From Seizure

Property and assets of the Corporation, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

Sec. 5. Immunity of Archives

The archives of the Corporation shall be inviolable.

Sec. 6. Freedom of Assets From Restrictions

To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of Article III, Section 5, and other provisions of this Agreement, all property and assets of the Corporation shall be free from restrictions, regulations, controls and moratoria of any nature.

Sec. 7. Privilege for Communications

The official communications of the Corporation shall be accorded by each member the same treatment that it accords to the official communications of other members.

Sec. 8. Immunities and Privileges of Officers and Employees

All governors, directors, alternates, officers and employees of the Corporation—

(i) shall be immune from legal process with respect to acts performed by them in their official capacity;

(ii) not being local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials, and employees of comparable rank of other members;

(iii) shall be granted the same treatment in respect of traveling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

Sec. 9. Immunities From Taxation

(a) The Corporation, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Corporation shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Corporation to Directors, Alternates, officials or employees of the Corporation who are not local citizens, local subjects, or other local nationals.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Corporation (including any dividend or interest thereon) by whomsoever held—

(i) which discriminates against such obligation or security solely because it is issued by the Corporation; or

(ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Corporation.

(d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Corporation (including any dividend or interest thereon) by whomsoever held—

(i) which discriminates against such obligation or security solely because it is guaranteed by the Corporation; or

(ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Corporation.

Sec. 10. Application of Article

Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this Article and shall inform the Corporation of the detailed action which it has taken.

Sec. 11. Waiver

The Corporation in its discretion may waive any of the privileges and immunities conferred under this Article to such extent and upon such conditions as it may determine.

ARTICLE VII. AMENDMENTS

(a) This Agreement may be amended by vote of three-fifths of the Governors exercising four-fifths of the total voting power.

(b) Notwithstanding paragraph (a) above, the affirmative vote of all Governors is required in the case of any amendment modifying—

(i) the right to withdraw from the Corporation provided in Article V, Section 1;

(ii) the preemptive right secured by Article II, Section 2(d);

(iii) the limitation on liability provided in Article II, Section 4.

(c) Any proposal to amend this Agreement, whether emanating from a member, a Governor or the Board of Directors, shall be communicated to the Chairman of the Board of Governors who shall bring the proposal before the Board of Governors. When an amendment has been duly adopted, the Corporation shall so certify by formal communication addressed to all members. Amendments shall enter into force for all members three months after the date of the formal communication unless the Board of Governors shall specify a shorter period.

ARTICLE VIII. INTERPRETATION AND ARBITRATION

(a) Any question of interpretation of the provisions of this Agreement arising between any member and the Corporation or between any members of the Corporation shall be submitted to the Board of Directors for its decision. If the question particularly affects any member of the Corporation not entitled to appoint an Executive Director of the Bank, it shall be entitled to representation in accordance with Article IV, Section 4(g).

(b) In any case where the Board of Directors has given a decision under (a) above, any member may require that the question be referred to the Board of Governors, whose decision be final. Pending the result of the reference to the Board of Governors, the Corporation may, so far as it deems necessary, act on the basis of the decision of the Board of Directors.

(c) Whenever a disagreement arises between the Corporation and a country which has ceased to be a member, or between the Corporation and any member during the permanent suspension of the

Corporation, such disagreement shall be submitted to arbitration by a tribunal of three arbitrators, one appointed by the Corporation, another by the country involved and an umpire who, unless the parties otherwise agree, shall be appointed by the President of the International Court of Justice or such other authority as may have been prescribed by regulation adopted by the Corporation. The umpire shall have full power to settle all questions of procedure in any case where the parties are in disagreement with respect thereto.

ARTICLE IX. FINAL PROVISIONS

Section 1. Entry Into Force

This Agreement shall enter into force when it has been signed on behalf of not less than 30 governments whose subscriptions comprise not less than 75 percent of the total subcriptions set forth in Schedule A and when the instruments referred to in Section 2(a) of this Article have been deposited on their behalf, but in no event shall this Agreement enter into force before October 1, 1955.

Sec. 2. Signature

(a) Each government on whose behalf this Agreement is signed shall deposit with the Bank an instrument setting forth that it has accepted this Agreement without reservation in accordance with its law and has taken all steps necessary to enable it to carry out all of its obligations under this Agreement.

(b) Each government shall become a member of the Corporation as from the date of the deposit on its behalf of the instrument referred to in paragraph (a) above except that no government shall become a member before this Agreement enters into force under Section 1 of this Article.

(c) This Agreement shall remain open for signature until the close of business on December 31, 1956, at the principal office of the Bank on behalf of the governments of the countries whose names are set forth in Schedule A.

(d) After this Agreement shall have entered into force, it shall be open for signature on behalf of the government of any country whose membership has been approved pursuant to Article II, Section 1(b).

Sec. 3. Inauguration of the Corporation

(a) As soon as this Agreement enters into force under Section 1 of this Article the Chairman of the Board of Directors shall call a meeting of the Board of Directors.

(b) The Corporation shall begin operations on the date when such meeting is held.

(c) Pending the first meeting of the Board of Governors, the Board of Directors may exercise all the powers of the Board of Governors except those reserved to the Board of Governors under this Agreement.

DONE at Washington, in a single copy which shall remain deposited in the archives of the International Bank for Reconstruction and Development, which has indicated by its signature below its agreement to act as depository of this Agreement and to notify all governments whose names are set forth in Schedule A of the date when this Agreement shall enter into force under Article IX, Section 1 hereof.

4. Agreement Establishing the Inter-American Development Bank (amended)

CONTENTS

Page

ARTICLE I—PURPOSE AND FUNCTIONS 477
  Section 1—Purpose 477
  Section 2—Functions 478
ARTICLE II—MEMBERSHIP IN AND CAPITAL OF THE BANK 478
  Section 1—Membership 478
  Section 1A—Categories of Resources 478
  Section 2—Authorized Ordinary Capital 478
  Section 3—Subscription of Shares 479
  Section 4—Payment of Subscriptions 480
  Section 5—Ordinary Capital Resources 481
ARTICLE IIA—INTER-REGIONAL CAPITAL OF THE BANK 481
  Section 1—Authorized Inter-regional Capital 481
  Section 2—Subscription of Shares of Inter-regional Capital 482
  Section 3—Payment of Subscriptions to Inter-regional Capital 482
  Section 4—Inter-regional Capital Resources 483
ARTICLE III—OPERATIONS 483
  Section 1—Use of Resources 483
  Section 2—Categories of Operations 483
  Section 3—Basic Principle of Separation 484
  Section 4—Methods of Making or Guaranteeing Loans 484
  Section 5—Limitations on Operations 485
  Section 6—Direct Loan Financing 486
  Section 7—Rules and Conditions for Making or Guaranteeing Loans 486
  Section 8—Optional Conditions for Making or Guaranteeing Loans 487
  Section 9—Use of Loans Made or Guaranteed by the Bank 487
  Section 10—Payment Provisions for Direct Loans 487
  Section 11—Guarantees 487
  Section 12—Special Commission 488
  Section 13—Special Reserve 488
ARTICLE IV—FUND FOR SPECIAL OPERATIONS 488
  Section 1—Establishment, Purpose, and Functions 488
  Section 2—Applicable Provisions 488
  Section 3—Resources 488
  Section 4—Operations 490
  Section 5—Limitation on Liability 490
  Section 6—Limitation on Disposition of Quotas 490
  Section 7—Discharge of Fund Liabilities on Borrowings 491
  Section 8—Administration 491
  Section 9—Voting 491
  Section 10—Distribution of Net Profits 491
  Section 11—Withdrawal of Contributions 491
  Section 12—Suspension and Termination 492
ARTICLE V—CURRENCIES 492
  Section 1—Use of Currencies 492
  Section 2—Valuation of Currencies 493
  Section 3—Maintenance of Value of the Currency Holdings of the Bank 493
  Section 4—Methods of Conserving Currencies 494
ARTICLE VI—TECHNICAL ASSISTANCE 494
  Section 1—Provision of Technical Advice and Assistance 494
  Section 2—Cooperative Agreements on Technical Assistance 494
  Section 3—Expenses 494

Page

Article VII—Miscellaneous Powers and Distribution of Profits 495
  Section 1—Miscellaneous Powers of the Bank 495
  Section 2—Warning To Be Placed on Securities 495
  Section 3—Methods of Meeting Liabilities of the Bank in Case of Defaults 495
  Section 4—Distribution of Net Profits and Surplus 497
Article VIII—Organization and Management 498
  Section 1—Structure of the Bank 498
  Section 2—Board of Governors 498
  Section 3—Board of Executive Directors 499
  Section 4—Voting 500
  Section 5—President, Executive Vice President, and Staff 501
  Section 6—Publication of Reports and Provision of Information 502
Article IX—Withdrawal and Suspension of Members 503
  Section 1—Right To Withdraw 503
  Section 2—Suspension of Membership 503
  Section 3—Settlement of Accounts 503
Article X—Suspension and Termination of Operations 505
  Section 1—Suspension of Operations 505
  Section 2—Termination of Operations 505
  Section 3—Liability of Members and Payment of Claims 505
  Section 4—Distribution of Assets 505
Article XI—Status, Immunities and Privileges 506
  Section 1—Scope of Article 506
  Section 2—Legal Status 506
  Section 3—Judicial Proceedings 506
  Section 4—Immunity of Assets 506
  Section 5—Inviolability of Archives 506
  Section 6—Freedom of Assets From Restrictions 506
  Section 7—Privilege for Communications 507
  Section 8—Personal Immunities and Privileges 507
  Section 9—Immunities From Taxation 507
  Section 10—Implementation 507
Article XII—Amendments 508
Article XIII—Interpretation and Arbitration 508
  Section 1—Interpretation 508
  Section 2—Arbitration 509
Article XIV—General Provisions 509
  Section 1—Principal Office 509
  Section 2—Relations With Other Organizations 509
  Section 3—Channel of Communication 509
  Section 4—Depositories 509
Article XV—Final Provisions 509
  Section 1—Signature and Acceptance 509
  Section 2—Entry Into Force 510
  Section 3—Commencement of Operations 510
Annex A—Subscriptions to Authorized Capital Stock of the Bank 511
Annex B—Contribution Quotas for the Fund for Special Operations 512

4. Agreement Establishing the Inter-American Development Bank[1]

Done at Washington, April 8, 1959; Instrument of acceptance by the United States of America deposited with the General Secretariat of the Organization of American States, October 14, 1959; Entered into force December 30, 1959. Amended April 28, 1964,[2] June 30, 1968,[3] March 23, 1972,[4] and June 1, 1976[5]

The countries on whose behalf this Agreement is signed agree to create the Inter-American Development Bank, which shall operate in accordance with the following provisions:

Article I. Purpose and Functions

Section 1. Purpose

The purpose of the Bank shall be to contribute to the acceleration of the process of economic and social[6] development of the regional developing[6] member countries, individually and collectively.

Sec. 2. Functions

(a) To implement its purpose, the Bank shall have the following functions:

(i) to promote the investment of public and private capital for development purposes;

(ii) to utilize its own capital, funds raised by it in financial markets, and other available resources, for financing the development of the member countries, giving priority to those loans and guarantees that will contribute most effectively to their economic growth;

(iii) to encourage private investment in projects, enterprises, and activities contributing to economic development and to supplement private investment when private capital is not available on reasonable terms and conditions;

(iv) to cooperate with the member countries to orient their development policies toward a better utilization of their resources, in a manner consistent with the objectives of making their economies more complementary and of fostering the orderly growth of their foreign trade; and

(v) to provide technical assistance for the preparation, financing, and implementation of development plans and projects, including the study of priorities and the formulation of specific project proposals.

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[1] 10 UST 3029; TIAS 4387.

[2] 21 UST 1570; TIAS 6920. Approved by the Board of Governors of the Inter-American Development Bank January 28, 1964; Entered into force April 28, 1964.

[3] 19 UST 7381; TIAS 6591. Approved by the Board of Governors of the Inter-American Development Bank March 31, 1968; Entered into force June 30, 1968.

[4] TIAS 7437. Approved by the Board of Governors of the Inter-American Development Bank March 23, 1972; Entered into force March 27, 1972.

[5] TIAS 8383. Approved by the Board of Governors of the Inter-American Development Bank June 1, 1976; Entered into force June 1, 1976.

[6] This section was amended by action of the Board of Governors June 1, 1976 (TIAS 8383) by adding the words "and social" and "regional developing".

(b) In carrying out its functions, the Bank shall cooperate as far as possible with national and international institutions and the private sources supplying investment capital.

ARTICLE II. MEMBERSHIP IN AND CAPITAL OF THE BANK

Section 1. Membership

(a) The original members of the Bank shall be those members of the Organization of American States which, by the date specified in Article XV, Section 1(a), shall accept membership in the Bank.

(b)[7] Membership shall be open to other members of the Organization of American States and to Canada, Bahamas and Guyana, at such times and in accordance with such terms as the Bank may determine.

Nonregional countries which are members of the International Monetary Fund, and Switzerland, may also be admitted to the Bank, at such times, and under such general rules as the Board of Governors shall have established. Such general rules may be amended only by decision of the Board of Governors by a two-thirds majority of the total number of governors, including two-thirds of the governors of nonregional members, representing not less than three-fourths of the total voting power of the member countries.

Sec. 1A.[8] Categories of Resources

The resources of the Bank shall consist of the ordinary capital resources, provided for in this article, and the inter-regional capital resources, provided for in Article IIA, and the resources of the Fund for Special Operations established by Article IV (hereinafter called the Fund).

Sec. 2.[9] Authorized Ordinary Capital

(a) The authorized ordinary capital stock of the Bank initially shall be in the amount of eight hundred fifty million dollars ($850,000,000)[10] in terms of United States dollars of the weight and fineness in effect on January 1, 1959 and shall be divided into 85,000 shares having a par value of $10,000 each, which shall be available for subscription by members in accordance with Section 3 of this article.

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[7] Subsection (b) was amended and restated by action of the Board of Governors on March 23, 1972 (TIAS 7437); further amended and restated on June 1, 1976 (TIAS 8383).

[8] Sec. 1A was added by action of the Board of Governors, June 1, 1976 (TIAS 8383).

[9] Sec. 2 was amended and restated by action of the Board of Governors, June 1, 1976 (TIAS 8383).

[10] On January 28, 1964, the Board of Governors increased the authorized capital stock of the Bank to two billion one hundred and fifty million dollars ($2,150,000,000); on June 20, 1968, to three billion one hundred and fifty million dollars ($3,150,000,000); and on December 30, 1971, to five billion one hundred and fifty million dollars ($5,150,000,000). Due to the devaluation of U.S. dollar and other member currency, a special adjustment process occurred during 1972 and 1973 which increased the resources available for ordinary capital lending to $6.2 billion (as of Dec. 31, 1974, in terms of current U.S. dollars). In 1976, the authorized ordinary capital of the Bank was again increased by $2.9 billion bringing the total to $9.1 billion. In 1979, the ordinary capital of the Bank was increased by $8 billion. In 1983, IDB Inter-regional ordinary capital stock was increased by an additional $15,000,010,000.

(b) The authorized ordinary capital stock shall be divided into paid-in shares and callable shares. The equivalent of four hundred million dollars ($400,000,000) shall be paid in, and four hundred fifty million dollars ($450,000,000) shall be callable for the purposes specified in Section 4(a)(ii) of this article.

(c) The ordinary capital stock indicated in (a) of this section shall be increased by five hundred million dollars ($500,000,000) in terms of United States dollars of the weight and fineness existing on January 1, 1959, provided that:

(i) the date for payment of all subscriptions established in accordance with Section 4 of this article shall have passed; and

(ii) a regular or special meeting of the Board of Governors, held as soon as possible after the date referred to in subparagraph (i) of this paragraph, shall have approved the abovementioned increase of five hundred million dollars ($500,000,000) by a three-fourths majority of the total voting power of the member countries.

(d) The increase of capital stock provided for in the preceding paragraph shall be in the form of callable capital.

(e) Notwithstanding the provisions of paragraphs (c) and (d) of this section and subject to the provisions of Article VIII, Section 4(b), the authorized ordinary capital stock may be increased when the Board of Governors deems it advisable and in a manner agreed upon by a three-fourths majority of the total voting power of the member countries, including a two-thirds majority of the governors of regional members.

(f) Whenever the authorized inter-regional capital stock is increased pursuant to Article IIA, Section 1(c), and a member exercises the option provided for in Article II, Section 3(f), ordinary capital stock shall be increased in the amount required to allow such member to exercise that option and the inter-regional capital stock available for subscription by that member shall be reduced in an equivalent amount and be appropriately cancelled.

Sec. 3.[11] Subscription of Shares

(a) Each regional member shall subscribe to shares of the ordinary capital stock of the Bank, and nonregional members may subscribe thereto in accordance with the terms of paragraph (b) of this section and in accordance with such terms as the Board of Governors shall establish. The number of shares to be subscribed by the original members shall be those set forth in Annex A of this Agreement, which specifies the obligations of each member as to both paid-in and callable capital. The number of shares to be subscribed by other members shall be determined by the Bank.

(b) In case of an increase in ordinary capital pursuant to Section 2, paragraph (c) or (e) of this article, or an increase in inter-regional capital pursuant to Article IIA, Section 1(c), or an increase in both ordinary and inter-regional capital, each member shall have a right to subscribe, under such conditions as the Bank shall decide, to a proportion of the increase of stock equivalent to the proportion which its stock theretofore subscribed bears to the total capital

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[11] Sec. 3 was amended and restated by action of the Board of Governors, June 1, 1976 (TIAS 8383).

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stock of the Bank. No member, however, shall be obligated to subscribe to any part of such increased capital.

(c) Shares of ordinary capital stock initially subscribed by original members shall be issued at par. Other shares shall be issued at par unless the Bank decides in special circumstances to issue them on other terms.

(d) The liability of the member countries on ordinary capital shares shall be limited to the unpaid portion of their issue price.

(e) Shares of ordinary capital stock shall not be pledged or encumbered in any manner, and they shall be transferable only to the Bank.

(f) Any member having the right to subscribe to the interregional capital stock of the Bank under paragraph (b) of this section, shall have the option of waiving that right and subscribing in lieu thereof to an equivalent amount of ordinary capital stock.

Sec. 4. Payment of Subscriptions

(a) Payment of the subscriptions to the ordinary[12] capital stock of the Bank as set forth in Annex A shall be made as follows:

(i) Payment of the amount subscribed by each country to the paid-in capital stock of the Bank shall be made in three installments, the first of which shall be 20 percent, and the second and third each 40 percent, of such amount. The first installment shall be paid by each country at any time on or after the date on which this Agreement is signed, and the instrument of acceptance or ratification deposited, on its behalf in accordance with Article XV, Section 1, but not later than September 30, 1960. The remaining two installments shall be paid on such dates as are determined by the Bank, but not sooner than September 30, 1961, and September 30, 1962, respectively.

Of each installment, 50 percent shall be paid in gold and/or dollars and 50 percent in the currency of the member.

(ii) The callable portion of the subscription for ordinary[12] capital shares in the Bank shall be subject to call only when required to meet the obligations of the Bank created under Article III, Section 4(ii) and (v)[12] on borrowing of funds for inclusion in the Bank's ordinary capital resources or guarantees chargeable to such resources. In the event of such a call, payment may be made at the option of the member either in gold, in United States dollars, or in the currency required to discharge the obligations of the Bank for the purpose for which the call is made.

Calls on unpaid subscriptions shall be uniform in percentage on all shares.

(b) Each payment of a member in its own currency under paragraph (a)(i) of this section shall be in such amount as, in the opinion of the Bank, is equivalent to the full value of terms of United States dollars of the weight and fineness in effect on January 1, 1959, of the portion of the subscription being paid. The initial payment shall be in such amount as the member considers appropriate hereunder but shall be subject to such adjustment, to be effected within 60 days of the date on which the payment was due, as the Bank shall determine to be necessary to constitute the full dollar value equivalent as provided in this paragraph.

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[12] Section 4(a) was amended by action of the Board of Governors, June 1, 1976 (TIAS 8383), whereby the word "ordinary" was added in two places and "(v)" was substituted in lieu of "(iii)".

(c) Unless otherwise determined by the Board of Governors by a three-fourths majority of the total voting power of the member countries, the liability of members of payment of the second and third installments of the paid-in portion of their subscriptions to the capital stock shall be conditional upon payment of not less than 90 percent of the total obligations of the members due for—

(i) the first and second installments, respectively, of the paid-in portion of the subscriptions; and

(ii) the initial payment and all prior calls on the subscription quotas to the Fund.

Sec. 5. Ordinary Capital Resources

As used in this Agreement, the term "ordinary capital resources" of the Bank shall be deemed to include the following:

(i) authorized ordinary[13] capital, including both paid-in and callable shares, subscribed pursuant to Sections 2 and 3 of this article;

(ii) all funds raised by borrowings under the authority of Article VII, Section 1(i) to which the commitment set forth in Section 4(a)(ii) of this article is applicable;

(iii) all funds received in repayment of loans made with the resources indicated in (i) and (ii) of this section;

(iv) all income derived from loans made from the aforementioned funds or from guarantees to which the commitment set forth in Section 4(a)(ii) of this article is applicable; and

(v)[14] all other income derived from any of the resources mentioned above.

ARTICLE IIA. INTER-REGIONAL CAPITAL OF THE BANK[15]

Section 1. Authorized Inter-regional Capital

(a) The initial authorized inter-regional capital stock of the Bank shall be four hundred twenty million dollars ($420,000,000)[16] in terms of United States dollars of the weight and fineness in effect on January 1, 1959 and shall be divided into 42,000 shares having a par value of $10,000 each, which shall be available for subscription by members in accordance with Section 2 of this article.

(b) The authorized inter-regional capital stock shall be divided into paid-in shares and callable shares. Of the initial authorized inter-regional capital stock, the equivalent of seventy million dollars ($70,000,000) shall be paid-in, and three hundred fifty million dollars ($350,000,000) shall be callable for the purposes specified in Section 3(c) of this article.

(c) Subject to the provisions of Article VIII, Section 4(b), the authorized inter-regional capital stock may be increased when the

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[13] The word "ordinary" was added by action of the Board of Governors, June 1, 1976 (TIAS 8383).

[14] Subparagraph (v) was added by action of the Board of Governors, June 1, 1976 (TIAS 8383).

[15] Article IIA was added by action of the Board of Governors, June 1, 1976 (TIAS 8383).

[16] During 1976, the Board of Governors increased the inter-regional capital stock of the Bank to $1.6 billion.

Board of Governors deems it advisable and in a manner agreed upon by a two-thirds majority of the total number of governors, including two-thirds of the governors of regional members, representing not less than three-fourths of the total voting power of the member countries.

(d) Whenever the authorized ordinary capital stock is increased pursuant to Article II, Section 2(e), and a member exercises the option provided for in Article IIA, Section 2(g), inter-regional capital stock shall be increased in the amount required to allow such member to exercise that option and the ordinary capital stock available for subscription by that member shall be reduced in an equivalent amount and be appropriately cancelled.

Sec. 2. Subscription of Shares of Inter-regional Capital

(a) Each nonregional member shall subscribe to shares of the inter-regional capital stock, and regional members may subscribe thereto in accordance with the terms of Article II, Section 3(b), and in accordance with such terms as the Board of Governors shall establish, subject to the provisions of this section.

(b) The subscription of each original nonregional member shall be such number of shares of paid-in and callable inter-regional capital stock as may be determined by the Bank. The subscription, including the manner of its payment, of any new nonregional member shall be determined by the Bank with due regard to the conditions of the existing subscriptions.

(c) Regional members may subscribe to the inter-regional capital stock on such terms as the Bank may determine, giving due regard to the conditions established for subscriptions by nonregional members.

(d) Shares of the initial authorized inter-regional capital stock shall be issued at par. Other shares will be issued at par unless the Bank decides in special circumstances to issue them on other terms.

(e) The liability of the member countries on inter-regional capital shares shall be limited to the unpaid portion of their issue price.

(f) Shares of inter-regional capital stock shall not be pledged or encumbered in any manner, and they shall be transferable only to the Bank.

(g) Any member having the right to subscribe to the ordinary capital stock of the Bank under Article II, Section 3(b), shall have the option of waiving that right and subscribing in lieu thereof to an equivalent amount of inter-regional capital stock.

Sec. 3. Payment of Subscriptions to Inter-regional Capital

(a) Payment of the amount subscribed by each country to the paid-in inter-regional capital stock shall be made entirely in the currency of the respective member, which shall make arrangements satisfactory to the Bank to assure that, subject to the provisions of Article V, Section 1(c), its currency shall be freely convertible into the currencies of other countries for the purposes of the Bank's operations.

(b) Each payment of a member under paragraph (a) of this section shall be in such amount as, in the opinion of the Bank, is equivalent to the full value in terms of United States dollars of the weight and fineness in effect on January 1, 1959, of the portion of the subscription being paid. The initial payment shall be in such amount as the member considers appropriate hereunder but shall be subject to such adjustment, to be effected within 60 days of the date on which the payment was due, as the Bank shall determine to be necessary to constitute the full dollar value equivalent as provided in this paragraph.

(c) The callable portion of the subscription for inter-regional capital shares of the Bank shall be subject to call only when required to meet the obligations of the Bank created under Article III, Section 4 (iv) and (v), on borrowings of funds for inclusion in the Bank's inter-regional capital resources or guarantees chargeable to such resources. In the event of such a call, payment may be made at the option of the member either in fully convertible currency of a member country or in the currency required to discharge the obligations of the Bank for the purpose for which the call is made.

Calls on unpaid subscriptions of inter-regional callable capital shall be uniform in percentage on all such shares.

Sec. 4. Inter-regional Capital Resources

As used in this Agreement, the term "inter-regional capital resources" of the Bank shall be deemed to include the following:

(i) Authorized inter-regional capital, including both paid-in and callable shares, subscribed pursuant to Section 2 of this article;

(ii) all funds raised by borrowings under the authority of Article VII, Section 1(i) to which the commitment set forth in Section 3(c) of this article is applicable;

(iii) all funds received in repayment of loans made with the resources indicated in (i) and (ii) of this section;

(iv) all income derived from loans made from the aforementioned funds or from guarantees to which the commitment set forth in Section 3(c) of this article is applicable; and

(v) all other income derived from any of the resources mentioned above.

ARTICLE III. OPERATIONS

Section 1. Use of Resources

The resources and facilities of the Bank shall be used exclusively to implement the purpose and functions enumerated in Article I of this Agreement.

Sec 2.[17] Categories of Operations

(a) The operations of the Bank shall be divided into ordinary operations, inter-regional resources operations, and special operations.

(b) The ordinary operations shall be those financed from the Bank's ordinary capital resources, as defined in Article II, Section 5. The inter-regional resources operations shall be those financed from the Bank's inter-regional capital resources, as defined in Article IIA, Section 4. Both types of operations shall relate exclusively to loans made, participated in, or guaranteed by the Bank which are repayable only in the respective currency or currencies in which the loans were made. Such operations shall be subject to the terms and conditions that the Bank deems advisable, consistent with the provisions of this agreement.

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[17] Sec. 2 was amended and restated by action of the Board of Governors, June 1, 1976 (TIAS 8383).

(c) The special operations shall be those financed from the resources of the Fund in accordance with the provisions of Article IV.

Sec. 3.[18] Basic Principle of Separation

(a) Subject to the amending provisions of Article XII(a)(ii), the ordinary capital resources, as defined in Article II, Section 5, the inter-regional capital resources, as defined in Article IIA, Section 4, and the resources of the Fund, as defined in Article IV, Section 3(h), shall at all times and in all respects be held, used, obligated, invested, or otherwise disposed of entirely separate from each other.

(b) The ordinary capital resources and the inter-regional capital resources shall under no circumstances be charged with, or used to discharge, obligations, liabilities or losses arising out of operations for which the resources of the Fund were originally used or committed.

(c) The ordinary capital resources shall under no circumstances be charged with, or used to discharge, obligations, liabilities or losses chargeable to the inter-regional capital resources, and, except as provided in Article VII, Section 3(d), the inter-regional capital resources shall under no circumstances be charged with, or used to discharge, obligations, liabilities or losses chargeable to the ordinary capital resources.

(d) The financial statements of the Bank shall show separately the ordinary operations, the inter-regional resources operations, and the special operations, and the Bank shall establish such other administrative rules as may be necessary to ensure the effective separation of the three types of operations.

(e) Expenses pertaining directly to ordinary operations shall be charged to the ordinary capital resources. Expenses pertaining directly to inter-regional resources operations shall be charged to the inter-regional capital resources. Expenses pertaining directly to special operations shall be charged to the resources of the Fund. Other expenses shall be charged as the Bank determines.

Sec. 4. Methods of Making or Guaranteeing Loans

Subject to the conditions stipulated in this article, the Bank may make or guarantee loans to any member, or any agency or political subdivision thereof, and to any enterprise in the territory of a member in any of the following ways:

(i) by making or participating in direct loans with funds corresponding to the unimpaired paid-in ordinary[19] capital and, except as provided in Section 13 of this article, to its reserves and undistributed surplus; or with the unimpaired resources of the Fund;

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[18] Sec. 3 was amended and restated by action of the Board of Governors, June 1, 1976 (TIAS 8383).

[19] Action by the Board of Governors, June 1, 1976 (TIAS 8383), provided that the word "ordinary" be inserted in subparagraph (i), subparagraph (iii) be amended and redesignated as subparagraph (v), and that new subparagraphs (iii) and (iv) be added.

(ii) By making or participating in direct loans with funds raised by the Bank in capital markets, or borrowed or acquired in any other manner for inclusion in the ordinary capital resources of the Bank or the resources of the Fund;

(iii) [19] by making or participating in direct loans with funds corresponding to the unimpaired paid-in inter-regional capital, including any reserves or undistributed surplus pertaining to such resources;

(iv) [19] by making or participating in direct loans with funds raised by the Bank in capital markets, or borrowed or acquired in any other manner, for inclusion in the inter-regional capital resources of the Bank; and

(v) [19] by guaranteeing, with the ordinary capital resources, the inter-regional capital resources, or the resources of the Fund, in whole or in part loans made, except in special cases, by private investors.

Sec. 5.[20] Limitations on Operations

(a) The total amount outstanding of loans and guarantees made by the Bank in its ordinary operations shall not at any time exceed the total amount of the unimpaired subscribed ordinary capital of the Bank, plus the unimpaired reserves and surplus included in the ordinary capital resources of the Bank, as defined in Article II, Section 5, exclusive of income assigned to the special reserve established pursuant to Section 13 of this article and other income of the ordinary capital resources assigned by decision of the Board of Governors to reserves not available for loans or guarantees.

(b) The total amount outstanding of loans and guarantees made by the Bank in its inter-regional resources operations shall not at any time exceed the total amount of the unimpaired subscribed inter-regional capital of the Bank, plus the unimpaired reserves and surplus included in the inter-regional capital resources of the Bank, as defined in Article IIA, Section 4, exclusive of income of the inter-regional capital resources assigned by decision of the Board of Governors to reserves not available for loans or guarantees.

(c) In the case of loans made out of funds borrowed by the Bank to which the obligations provided for in Article II, Section 4(a)(ii), are applicable, the total amount of principal outstanding and payable to the Bank in a specific currency shall at no time exceed the total amount of principal of the outstanding borrowings by the Bank for inclusion in its ordinary capital resources that are payable in the same currency.

(d) In the case of loans made out of funds borrowed by the Bank to which the obligations provided for in Article IIA, Section 3(c), are applicable, the total amount of principal outstanding and payable to the Bank in a specific currency shall at no time exceed the total amount of principal of the outstanding borrowings by the

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[20] Sec. 5 was amended and restated by action of the Board of Governors, June 1, 1976 (TIAS 8383).

Bank for inclusion in its inter-regional capital resources that are payable in the same currency.

Sec. 6. Direct Loan Financing

In making direct loans or participating in them, the Bank may provide financing in any of the following ways:

(a) By furnishing the borrower currencies of members, other than the currency of the member in whose territory the project is to be carried out, that are necessary to meet the foreign exchange costs of the project.

(b) By providing financing to meet expenses related to the purposes of the loan in the territories of the member in which the project is to be carried out. Only in special cases, particularly when the project indirectly gives rise to an increase in the demand for foreign exchange in that country, shall the financing granted by the Bank to meet local expenses be provided in gold or in currencies other than that of such member; in such cases, the amount of the financing granted by the Bank for this purpose shall not exceed a reasonable portion of the local expenses incurred by the borrower.

Sec. 7. Rules and Conditions for Making or Guaranteeing Loans

(a) The Bank may make or guarantee loans subject to the following rules and conditions:

(i) the applicant for the loan shall have submitted a detailed proposal and the staff of the Bank shall have presented a written report recommending the proposal after a study of its merits. In special circumstances, the Board of Executive Directors, by a majority of the total voting power of the member countries, may require that a proposal be submitted to the Board for decision in the absence of such a report;

(ii) in considering a request for a loan or guarantee, the Bank shall take into account the ability of the borrower to obtain the loan from private sources of financing on terms which, in the opinion of the Bank, are reasonable for the borrower, taking into account all pertinent factors;

(iii) in making or guaranteeing a loan, the Bank shall pay due regard to the prospects that the borrower and its guarantor, if any, will be in a position to meet their obligations under the loan contract;

(iv) in the opinion of the Bank, the rate of interest, other charges and the schedule for repayment of principal are appropriate for the project in question;

(v) in guaranteeing a loan made by other investors, the Bank shall receive suitable compensation for its risk; and

(vi) loans made or guaranteed by the Bank shall be principally for financing specific projects, including those forming part of a national or regional development program. However, the Bank may make or guarantee overall loans to development institutions or similar agencies of the members in order that the latter may facilitate the financing of specific development projects whose individual financing requirements are not, in the opinion of the Bank, large enough to warrant the direct supervision of the Bank.

(b) The Bank shall not finance any undertaking in the territory of a member if that member objects to such financing.

Sec. 8. Optional Conditions for Making or Guaranteeing Loans

(a) In the case of loans or guarantees of loans to nongovernmental entities, the Bank may, when it deems it advisable, require that the member in whose territory the project is to be carried out, or a public institution or a similar agency of the member acceptable to the Bank, guarantee the repayment of the principal and the payment of interest and other charges on the loan.

(b) The Bank may attach such other conditions to the making of loans or guarantees as it deems appropriate, taking into account both the interest of the members directly involved in the particular loan or guarantee proposal and the interests of the members as a whole.

Sec. 9. Use of Loans Made or Guaranteed by the Bank

(a) Except as provided in Article V, Section 1, the Bank shall impose no condition that the proceeds of a loan shall be spent in the territory of any particular country nor that such proceeds shall not be spent in the territories of any particular member or members; provided, however, that with respect to any increase of the resources of the Bank the question of restriction of procurement by the Bank or any member with regard to those members which do not participate in an increase under the terms and conditions specified by the Board of Governors may be determined by the Board of Governors.[21]

(b) The Bank shall take the necessary measures to insure that the proceeds of any loan made, guaranteed, or participated in by the Bank are used only for the purposes for which the loan was granted, with due attention to considerations of economy and efficiency.

Sec. 10. Payment Provisions for Direct Loans

Direct loan contracts made by the Bank in conformity with Section 4[22] of this article shall establish:

(a) All the terms and conditions of each loan, including among others, provision for payment of principal, interest and other charges, maturities, and dates of payment; and

(b) The currency or currencies in which payments shall be made to the Bank.

Sec. 11. Guarantees

(a) In guaranteeing a loan the Bank shall charge a guarantee fee, at a rate determined by the Bank, payable periodically on the amount of the loan outstanding.

(b) Guarantee contracts concluded by the Bank shall provide that the Bank may terminate its liability with respect to interest if, upon default by the borrower and by the guarantor, if any, the

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[21] The words to this point beginning with "provided, however," were added by action of the Board of Governors, June 1, 1976 (TIAS 8383).

[22] The words "(i) or (ii)" which formerly appeared at this point, were struck out by action of the Board of Governors, June 1, 1976 TIAS 8383).

Bank offers to purchase, at par and interest accrued to a date designated in the offer, the bonds or other obligations guaranteed.

(c) In issuing guarantees, the Bank shall have power to determine any other terms and conditions.

Sec. 12. Special Commission

On all loans, participations, or guarantees made out of or by commitment of the ordinary capital resources of the Bank, the latter shall charge a special commission. The special commission, payable periodically, shall be computed on the amount outstanding on each loan, participation, or guarantee and shall be at the rate of one percent per annum, unless the Bank, by a two-thirds majority of the total voting power of the member countries, decides to reduce the rate of commission.

Sec. 13. Special Reserve

The amount of commissions received by the Bank under Section 12 of this article shall be set aside as a special reserve, which shall be kept for meeting liabilities of the Bank in accordance with Article VII, Section 3(b)(i). The special reserves shall be held in such liquid form, permitted under this Agreement, as the Board of Executive Directors may decide.

ARTICLE IV. FUND FOR SPECIAL OPERATIONS

Section 1. Establishment, Purpose, and Functions

A Fund for Special Operations is established for the making of loans on terms and conditions appropriate for dealing with special circumstances arising in specific countries or with respect to specific projects.

The Fund, whose administration shall be entrusted to the Bank, shall have the purpose and functions set forth in Article I of this Agreement.

Sec. 2. Applicable Provisions

The Fund shall be governed by the provisions of the present article and all other provisions of this Agreement, excepting those inconsistent with the provisions of the present article and those expressly applying only to other[23] operations of the Bank.

Sec. 3. Resources

(a) The original members of the Bank shall contribute to the resources of the Fund in accordance with the provisions of this section.

(b) Members of the Organization of American States that join the Bank after the date specified in Article XV, Section 1(a), Canada, Bahamas and Guyana,[23] and countries that are admitted in accordance with Article II, Section 1(b), shall contribute to the Fund with such quotas, and under terms, as may be determined by the Bank.[24]

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[23] Action taken by the Board of Governors, June 1, 1976 substituted the word "other" in lieu of "the ordinary" in Sec. 2 and added the words, "Bahamas and Guyana." in Sec. 3(b).

[24] This paragraph was amended and restated by action of the Board of Governors on March 23, 1972 (TIAS 7437).

(c) The Fund shall be established with initial resources in the amount of one hundred and fifty million dollars ($150,000,000)[25] in terms of United States dollars of the weight and fineness in effect on January 1, 1959, which shall be contributed by the original members of the Bank in accordance with the quotas specified in Annex B.

(d) Payment of the quotas shall be made as follows:

(i) Fifty percent of its quota shall be paid by each member at any time on or after the date on which this Agreement is signed, and the instrument of acceptance or ratification deposited, on its behalf in accordance with Article XV, Section 1, but not later than September 30, 1960.

(ii) The remaining 50 percent shall be paid at any time subsequent to one year after the Bank has begun operations, in such amounts and at such times as are determined by the Bank; provided, however, that the total amount of all quotas shall be made due and payable not later than the date fixed for payment of the third installment of the subscriptions to the paid-in capital stock of the Bank.

(iii) The payments required under this section shall be distributed among the members in proportion to their quotas and shall be made one-half in gold and/or United States dollars, and one-half in the currency of the contributing member.

(e) Each payment of a member in its own currency under the preceding paragraph shall be in such amount as, in the opinion of the Bank, is equivalent to the full value, in terms of United States dollars of the weight and fineness in effect on January 1, 1959, of the portion of the quota being paid. The initial payment shall be in such amount as the member considers appropriate hereunder but shall be subject to such adjustment, to be effected within 60 days of the date on which payment was due, as the Bank shall determine to be necessary to constitute the full dollar value equivalent as provided in this paragraph.

(f) Unless otherwise determined by the Board of Governors by a three-fourths majority of the total voting power of the member countries, the liability of members for payment of any call on the unpaid portion of their subscription quotas to the Fund shall be conditional upon payment of not less than 90 percent of the total obligations of the members for—

(i) the initial payment and all prior calls on such quota subscriptions to the Fund; and

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[25] The Board of Governors increased the authorized resources of the Fund for Special Operations on January 28, 1964, to two hundred and twenty-three million, one hundred and fifty-eight thousand dollars ($223,158,000); on March 31, 1965, to one billion one hundred and twenty-three million, one hundred and fifty-eight thousand dollars ($1,123,158,000), and on December 29, 1967, to two billion three hundred twenty-three million, one hundred fifty-eight thousand dollars ($2,323,158,000); on October 16, 1969, to two billion three hundred and twenty-eight million nine thousand dollars ($2,328,009,000); and on May 3, 1972 to two billion three hundred and eighty-eight million nine thousand dollars ($2,388,009,000). In addition, on December 31, 1970, the Board of Governors approved a resolution providing for a further increase of one billion five hundred million dollars ($1,500,000,000) which increased the authorized resources of the Fund for Special Operations to three billion eight hundred and eighty-eight million nine thousand dollars ($3,888,009,000). Effective in 1976, the authorized resources of the Fund were again increased to $5.4 billion. In 1979 the authorized resources of the Fund were increased by $1.75 billion, raising the total resources to $7.655 billion.

(ii) any installments due on the paid-in portion of the subscriptions to the capital stock of the Bank.

(g) The resources of the Fund shall be increased through additional contributions by the members when the Board of Governors considers it advisable by a three-fourths majority of the total voting power of the member countries. The provisions of Article II, Section 3(b), shall apply to such increases, in terms of the proportion between the quota in effect for each member and the total amount of the resources of the Fund contributed by members. No member, however, shall be obligated to contribute any part of such increase.[26]

(h) As used in this Agreement, the term "resources of the Fund" shall be deemed to include the following:

(i) contributions by members pursuant to paragraphs (c) and (g) of this section;

(ii) all funds raised by borrowing to which the commitment stipulated in Article II, Section 4(a)(ii), and Article IIA, Section 3(c), are[27] not applicable, i.e., those that are specifically chargeable to the resources of the Fund;

(iii) all funds received in repayment of loans made from the resources mentioned above;

(iv) all income derived from operations using or committing any of the resources mentioned above; and

(v) any other resources at the disposal of the Fund.

Sec. 4. Operations

(a) The operations of the Fund shall be those financed from its own resources, as defined in Section 3(h) of the present article.

(b) Loans made with resources of the Fund may be partially or wholly repayable in the currency of the member in whose territory the project being financed will be carried out. The part of the loan not repayable in the currency of the member shall be paid in the currency or currencies in which the loan was made.

Sec. 5. Limitation on Liability

In the operations of the Fund, the financial liability of the Bank shall be limited to the resources and reserves of the Fund, and the liability of members shall be limited to the unpaid portion of their respective quotas that has become due and payable.

Sec. 6. Limitation on Disposition of Quotas

The rights of members of the Bank resulting from their contributions to the Fund may not be transferred or encumbered, and members shall have no right of reimbursement of such contributions except in cases of loss of the status of membership or of termination of the operations of the Fund.

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[26] The final sentence in Subsection (g) was added by action of the Board of Governors, June 1, 1976 (TIAS 8383).

[27] The words ", and Article IIA, Section 3(c), are" were added by action of the Board of Governors, June 1, 1976 (TIAS 8383).

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Sec. 7. Discharge of Fund Liabilities on Borrowings

Payments in satisfaction of any liability on borrowing of funds for inclusion in the resources of the Fund shall be charged—

(i) first, against any reserve established for this purpose; and

(ii) then, against any other funds available in the resources of the Fund.

Sec. 8. Administration

(a) Subject to the provisions of this Agreement, the authorities of the Bank shall have full powers to administer the Fund.

(b) There shall be a Vice President of the Bank in charge of the Fund. The Vice President shall participate in the meetings of the Board of Executive Directors of the Bank, without vote, whenever matters relating to the Fund are discussed.

(c) In the operations of the Fund the Bank shall utilize to the fullest extent possible the same personnel, experts, installations, offices, equipment, and services as it uses for its other[28] operations.

(d) The Bank shall publish a separate annual report showing the results of the Fund's financial operations, including profits or losses. At the annual meeting of the Board of Governors there shall be at least one session devoted to consideration of this report. In addition, the Bank shall transmit to the members a quarterly summary of the Fund's operations.

Sec. 9. Voting

(a) In making decisions concerning operations of the Fund, each member country of the Bank shall have the voting power in the Board of Governors accorded to it pursuant to Article VIII, Section 4 (a) and (c),[29] and each Director shall have the voting power in the Board of Executive Directors accorded to him pursuant to Article VIII, Section 4 (a) and (d).[29]

(b) All decisions of the Bank concerning the operations of the Fund shall be adopted by a two-thirds majority of the total voting power of the member countries, unless otherwise provided in this article.

Sec. 10. Distribution of Net Profits

The Board of Governors of the Bank shall determine what portion of the net profits of the Fund shall be distributed among the members after making provision for reserves. Such net profits shall be shared in proportion to the quotas of the members.

Sec. 11. Withdrawal of Contributions

(a) No country may withdraw its contribution and terminate its relations with the Fund while it is still a member of the Bank.

(b) The provisions of Article IX, Section 3, with respect to the settlement of accounts with countries that terminate their membership in the Bank also shall apply to the Fund.

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[28] The word "other" was substituted in lieu of "ordinary" by action of the Board of Governors, June 1, 1976 (TIAS 8383).

[29] Action taken by the Board of Directors, June 1, 1976, substituted "(c)" and "(d)" in lieu of "(b)" and "(c)", respectively.

Sec. 12. Suspension and Termination

The provisions of Article X also shall apply to the Fund with substitution of terms relating to the Fund and its resources and respective creditors for those relating to the Bank and its capital resources and respective creditors.

ARTICLE V. CURRENCIES

Section 1.[30] Use of Currencies

(a) The currency of any member held by the Bank in its ordinary capital resources, in its inter-regional capital resources, or in the resources of the Fund, however acquired, may be used by the Bank and by any recipient from the Bank, without restriction by the member, to make payments for goods and services produced in the territory of such member.

(b) Members may not maintain or impose restrictions of any kind upon the use by the Bank or by any recipient from the Bank, or payments in any country, of the following:

(i) gold and dollars received by the Bank in payment of the 50 percent portion of each member's subscription to shares of the Bank's ordinary capital and of the 50 percent portion of each member's quota for contribution to the Fund, pursuant to the provisions of Article II and Article IV, respectively, and currency received by the Bank in payment of the equivalent portion of each member's subscription to shares of the inter-regional capital pursuant to the provisions of Article IIA;

(ii) currencies of members purchased with the resources referred to in (i) of this paragraph;

(iii) currencies obtained by borrowings, pursuant to the provisions of Article VII, Section 1(i), for inclusion in the capital resources of the Bank;

(iv) gold and dollars received by the Bank in payment on account of principal, interest, and other charges, of loans made from the gold and dollar funds referred to in (i) of this paragraph; currencies received by the Bank in payment on account of principal, interest, and other charges, of loans made from the portion of the inter-regional capital referred to in (i) of this paragraph; currencies received in payment of principal, interest, and other charges, of loans made from currencies referred to in (ii) and (iii) of this paragraph; and currencies received in payment of commissions and fees on all guarantees made by the Bank; and

(v) currencies, other than the member's own currency, received from the Bank pursuant to Article VII, Section 4(d), and Article IV, Section 10, in distribution of net profits.

(c) A member's currency held by the Bank, whether in its ordinary capital resources, in its inter-regional capital resources, or in the resources of the Fund, not covered by paragraph (b) of this section, also may be used by the Bank or any recipient from the Bank for payments in any country without restriction of any kind, unless the member notifies the Bank of its desire that such currency or a portion thereof be restricted to the uses specified in paragraph (a) of this section.

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[30] Sec. 1 was amended and restated by action of the Board of Governors, June 1, 1976 (TIAS 8383).

(d) Members may not place any restrictions on the holding and use by the Bank, for making amortization payments or anticipating payment of, or repurchasing part or all of, the Bank's own obligations, of currencies received by the Bank in repayment of direct loans made from borrowed funds included in the ordinary or inter-regional capital resources of the Bank.

(e) Gold or currency held by the Bank in its ordinary capital resources, in its inter-regional capital resources, or in the resources of the Fund shall not be used by the Bank to purchase other currencies unless authorized by a two-thirds majority of the total voting power of the member countries. Any currencies purchased pursuant to the provisions of this paragraph shall not be subject to maintenance of value under Section 3 of this article.

Sec. 2. Valuation of Currencies

Whenever it shall become necessary under this Agreement to value any currency in terms of another currency, or in terms of gold, such valuation shall be determined by the Bank after consultation with the International Monetary Fund.

Sec. 3. Maintenance of Value of the Currency Holdings of the Bank

(a) Whenever the par value in the International Monetary Fund of a member's currency is reduced or the foreign exchange value of a member's currency has, in the opinion of the Bank, depreciated to a significant extent, the member shall pay to the Bank within a reasonable time an additional amount of its own currency sufficient to maintain the value of all the currency of the member held by the Bank in its ordinary capital resources, in its inter-regional capital resources,[31] or in the resources of the Fund, excepting currency derived from borrowings by the Bank. The standard of value for this purpose shall be the United States dollar of the weight and fineness in effect on January 1, 1959.

(b) Whenever the par value in the International Monetary Fund of a member's currency is increased or the foreign exchange value of such member's currency has, in the opinion of the Bank, appreciated to a significant extent, the Bank shall return to such member within a reasonable time an amount of that member's currency equal to the increase in the value of the amount of such currency which is held by the Bank in its ordinary capital resources, in its inter-regional capital resources,[31] or in the resources of the Fund, excepting currency derived from borrowings by the Bank. The standard of value for this purpose shall be the same as that established in the preceding paragraph.

(c) The provisions of this section may be waived by the Bank when a uniform proportionate change in the par value of the currences of all the Bank's members is made by the International Monetary Fund.

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[31] Action by the Board of Governors, June 1, 1976 (TIAS 8383), inserted the words "in its inter-regional capital resources," in Subsections (a) and (b), and added a new subsection (d).

(d)[31] Notwithstanding any other provisions of this section, the terms and conditions of any increase in the resources of the Fund pursuant to Article IV, Section 3(g), may include maintenance of value provisions other than those provided for in this section which would apply to the resources of the Fund contributed by such increase.

Sec. 4. Methods of Conserving Currencies

The Bank shall accept from any member promissory notes or similar securities issued by the government of the member, or by the depository designated by such member, in lieu of any part of the currency of the member representing the 50 percent portion of its subscription to the Bank's authorized ordinary[32] capital and the 50 percent portion of its subscription to the resources of the Fund, which, pursuant to the provisions of Article II and Article IV, respectively, are payable by each member in its national currency, provided such currency is not required by the Bank for the conduct of its operations. Such[32] notes or securities shall be non-negotiable, non-interest-bearing, and payable to the Bank at their par value on demand. On the same conditions, the Bank shall also accept such notes or securities in lieu of any part of the subscription of a member to the inter-regional capital with respect to which part the terms of the subscription do not require payment in cash.[32]

ARTICLE VI. TECHNICAL ASSISTANCE

Section 1. Provision of Technical Advice and Assistance

The Bank may, at the request of any member or members, or of private firms that may obtain loans from it, provide technical advice and assistance in its field of activity, particularly on—

(i) the preparation, financing, and execution of development plans and projects, including the consideration of priorities, and the formulation of loan proposals on specific national or regional development projects; and

(ii) the development and advanced training, through seminars and other forms of instruction, of personnel specializing in the formulation and implementation of development plans and projects.

Sec. 2. Cooperative Agreements on Technical Assistance

In order to accomplish the purposes of this article, the Bank may enter into agreements on technical assistance with other national or international institutions, either public or private.

Sec. 3. Expenses

(a) The Bank may arrange with member countries or firms receiving technical assistance, for reimbursement of the expenses of furnishing such assistance on terms which the Bank deems appropriate.

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[32] Action by the Board of Governors, June 1, 1976 inserted the word "ordinary", struck out the word "promissory" which formerly appeared after "Such", and added the final sentence to Sec. 4.

(b) The expenses of providing technical assistance not paid by the recipients shall be met from the net income of the ordinary capital resources, of the inter-regional capital resources,[33] or of the Fund. However, during the first three years of the Bank's operations, up to three percent, in total, of the initial resources of the Fund may be used to meet such expenses.

ARTICLE VII. MISCELLANEOUS POWERS AND DISTRIBUTION OF PROFITS

Section 1. Miscellaneous Powers of the Bank

In addition to the powers specified elsewhere in this Agreement, the Bank shall have the power to—

(i) borrow funds and in that connection to furnish such collateral or other security therefore as the Bank shall determine, provided that, before making a sale of its obligations in the markets of a country, the Bank shall have obtained the approval of that country and of the member in whose currency the obligations are denominated. In addition, in the case of borrowings of funds to be included in the Bank's ordinary capital resources or inter-regional capital resources,[34] the Bank shall obtain agreement of such countries that the proceeds may be exchanged for the currency of any other country without restriction;

(ii) buy and sell securities it has issued or guaranteed or in which it has invested, provided that the Bank shall obtain the approval of the country in whose territories the securities are to be bought or sold;

(iii) with the approval of a two-thirds majority of the total voting power of the member countries, invest funds not needed in its operations in such obligations as it may determine;

(iv) guarantee securities in its portfolio for the purpose of facilitating their sale; and

(v) exercise such other powers as shall be necessary or desirable in furtherance of its purpose and functions, consistent with the provisions of this Agreement.

Sec. 2. Warning To Be Placed on Securities

Every security issued or guaranteed by the Bank shall bear on its face a conspicuous statement to the effect that it is not an obligation of any government, unless it is in fact the obligation of a particular government, in which case it shall so state.

Sec. 3.[35] Methods of Meeting Liabilities of the Bank in Case of Defaults

(a) The Bank, in the event of actual or threatened default on loans made or guaranteed by the Bank using its ordinary capital resources or its inter-regional capital resources, shall take such action as it deems appropriate with respect to modifying the terms of the loan, other than the currency of repayment.

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[33] Action of the Board of Governors. June 1, 1976 (TIAS 8383), substituted "ordinary capital resources, of the inter-regional capital resources," in lieu of "Bank".

[34] The words "or inter-regional capital resources," were added by action of the Board of Governors, June 1, 1976 (TIAS 8383).

[35] Sec. 3 was amended and restated by action by the Board of Governors, June. 1, 1976 (TIAS 8383).

(b) The payments in discharge of the Bank's liabilities on borrowings or guarantees under Article III, Section 4 (ii) and (v) chargeable against the ordinary capital resources of the Bank shall be charged:

(i) first, against the special reserve provided for in Article III, Section 13; and

(ii) then, to the extent necessary and at the discretion of the Bank, against the other reserves, surplus, and funds corresponding to the capital paid in for ordinary capital shares.

(c) Whenever necessary to meet contractual payments of interest, other charges, or amortization on the Bank's borrowings payable out of its ordinary capital resources, or to meet the Bank's liabilities with respect to similar payments on loans guaranteed by it chargeable to its ordinary capital resources, the Bank may call upon the members to pay an appropriate amount of their callable ordinary capital subscriptions, in accordance with Article II, Section 4(a)(ii). Moreover, if the Bank believes that a default may be of long duration, it may call an additional part of such subscriptions not to exceed in any one year one percent of the total subscriptions of the members of the ordinary capital resources, for the following purposes:

(i) to redeem prior to maturity, or otherwise discharge its liability on, all or part of the outstanding principal of any loan guaranteed by it chargeable to its ordinary capital resources in respect of which the debtor is in default; and

(ii) to repurchase, or otherwise discharge its liability on, all or part of its own outstanding obligations payable out of its ordinary capital resources.

(d)[36] The Bank's liabilities on all borrowings of funds for inclusion in its ordinary capital resources which were outstanding at December 31, 1974 shall be payable out of both the ordinary capital resources and the inter-regional capital resources, including, notwithstanding the provisions of Article IIA, Section 3(c), the callable inter-regional capital subscriptions, provided, however, that the Bank shall use its best efforts to discharge its liabilities on such outstanding borrowings out of its ordinary capital resources pursuant to paragraphs (b) and (c) of this section before discharging such liabilities out of its inter-regional capital resources pursuant to paragraphs (e) and (f) of this section, for which purpose appropriate substitution shall be made in such paragraphs of the term ordinary capital for inter-regional capital.

(e)[36] The payments in discharge of the Bank's liabilities on borrowings or guarantees under Article III, Section 4 (iv) and (v) chargeable against the inter-regional capital resources of the Bank shall be charged:

(i) first, against any reserve established for this purpose; and

(ii) then, to the extent necessary and at the discretion of the Bank, against the other reserves, surplus, and funds corresponding to the capital paid in for inter-regional capital shares.

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[36] Subsections (d), (e), and (f) were added by action of the Board of Governors, June 1, 1976 (TIAS 8383).

(f)[36] Whenever necessary to meet contractual payments of interest, other charges, or amortization on the Bank's borrowings payable out of its inter-regional capital resources, or to meet the Bank's liabilities with respect to similar payments on loans guaranteed by it chargeable to its inter-regional capital resources, the Bank may call upon the members to pay an appropriate amount of their callable inter-regional capital subscriptions, in accordance with Article IIA, Section 3(c). Moreover, if the Bank believes that a default may be of long duration, it may call an additional part of such subscriptions not to exceed in any one year one percent of the total subscriptions of the members to the inter-regional capital resources, for the following purposes:

(i) to redeem prior to maturity, or otherwise discharge its liability on, all or part of the outstanding principal of any loan guaranteed by it chargeable to its inter-regional capital resources in respect of which the debtor is in default; and

(ii) to repurchase, or otherwise discharge its liability on, all or part of its own outstanding obligations payable out of its inter-regional capital resources.

Sec. 4.[37] Distribution of Net Profits and Surplus

(a) The Board of Governors may determine periodically what part of the net profits and of the surplus of the ordinary capital resources and of the inter-regional capital resources shall be distributed. Such distributions may be made only when the reserves have reached a level which the Board of Governors considers adequate.

(b) When approving the statements of profit and loss, pursuant to Article VIII, Section 2(b)(viii), the Board of Governors may by decision of a two-thirds majority of the total number of governors representing not less than three-fourths of the total voting power of the member countries transfer part of the net profits for the respective fiscal year of the ordinary capital resources or of the inter-regional capital resources to the Fund.

Before the Board of Governors determines to make a transfer to the Fund, it shall have received a report from the Board of Executive Directors on the desirability of such a transfer, which shall take into consideration, *inter alia,* (1) whether the reserves have reached a level that is adequate; (2) whether the transferred funds are needed for the operation of the Fund; and (3) the impact, if any, on the Bank's ability to borrow.

(c) The distributions referred to in paragraph (a) of this section shall be made from the ordinary capital resources in proportion to the number of ordinary capital shares held by each member and from the inter-regional capital resources in proportion to the number of inter-regional capital shares held by each member and likewise the net profits transferred to the Fund pursuant to paragraph (b) of this section shall be credited to the total contribution quotas of each member in the Fund in the foregoing proportions.

(d) Payments pursuant to paragraph (a) of this section shall be made in such manner and in such currency or currencies as the

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[37] Sec. 4 was amended and restated by action of the Board of Governors, June 1, 1976 (TIAS 8383).

Board of Governors shall determine. If such payments are made to a member in currencies other than its own, the transfer of such currencies and their use by the receiving country shall be without restriction by any member.

ARTICLE VIII. ORGANIZATION AND MANAGEMENT

Section 1. Structure of the Bank

The Bank shall have a Board of Governors, a Board of Executive Directors, a President, an Executive Vice President, a Vice President in charge of the Fund, and such other officers and staff as may be considered necessary.

Sec. 2. Board of Governors

(a) All the powers of the Bank shall be vested in the Board of Governors. Each member shall appoint one governor and one alternate, who shall serve for five years, subject to termination of appointment at any time, or to reappointment, at the pleasure of the appointing member. No alternate may vote except in the absence of his principal. The Board shall select one of the governors as Chairman, who shall hold office until the next regular meeting of the Board.

(b) The Board of Governors may delegate to the Board of Executive Directors all its powers except power to—

(i) admit new members and determine the conditions of their admission;

(ii) increase or decrease the authorized ordinary capital stock and inter-regional [38] capital stock of the Bank and the contributions to the Fund;

(iii) elect the President of the Bank and determine his remuneration;

(iv) suspend a member, pursuant to Article IX, Section 2;

(v) determine the remuneration of the executive directors and their alternates;

(vi) hear and decide any appeals from interpretations of this Agreement given by the Board of Executive Directors;

(vii) authorize the conclusion of general agreements for cooperation with other international organizations;

(viii) approve, after reviewing the auditor's reports, the general balance sheets and the statements of profit and loss of the institution;

(ix) determine the reserves and the distribution of the net profits of the ordinary capital resources and of the inter-regional capital resources [38] and of the Fund;

(x) select outside auditors to certify to the general balance sheets and the statements of profit and loss of the institution;

(xi) amend this Agreement; and

(xii) decide to terminate the operations of the Bank and to distribute its assets.

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[38] Action by the Board of Governors, June 1, 1976 added the words "ordinary capital stock and inter-regional" in subparagraph (ii), and substituted the words "ordinary capital resources and of the inter-regional capital resources" in lieu of "Bank" in subparagraph (ix).

(c) The Board of Governors shall retain full power to exercise authority over any matter delegated to the Board of Executive Directors under paragraph (b) above.

(d) The Board of Governors shall, as a general rule, hold a meeting annually. Other meetings may be held when the Board of Governors so provides or when called by the Board of Executive Directors. Meetings of the Board of Governors also shall be called by the Board of Executive Directors whenever requested by five members of the Bank or by members having one-fourth of the total voting power of the member countries.

(e) A quorum for any meeting of the Board of Governors shall be an absolute majority of the total number of governors including an absolute majority of the governors of regional members,[39] representing not less than two-thirds of the total voting power of the member countries.

(f) The Board of Governors may establish a procedure whereby the Board of Executive Directors, when it deems such action appropriate, may submit a specific question to a vote of the governors without calling a meeting of the Board of Governors.

(g) The Board of Governors, and the Board of Executive Directors to the extent authorized, may adopt such rules and regulations as may be necessary or appropriate to conduct the business of the Bank.

(h) Governors and alternates shall serve as such without compensation from the Bank, but the Bank may pay them reasonable expenses incurred in attending meetings of the Board of Governors.

Sec. 3. Board of Executive Directors [40]

(a) The Board of Executive Directors shall be responsible for the conduct of the operations of the Bank, and for this purpose may exercise all the powers delegated to it by the Board of Governors.

(b) [40] (i) Executive directors shall be persons of recognized competence and wide experience in economic and financial matters but who shall not be governors.

(ii) [41] One executive director shall be appointed by the member country having the largest number of shares in the Bank, two executive directors shall be elected by the governors of the nonregional member countries, and not less than eight others shall be elected by the governors of the remaining member countries. The number of executive directors to be elected in the last category, and the procedure for the election of all the elective directors shall be determined by regulations adopted by the Board of Governors by a three-fourths majority of the total voting power of the member countries, including, with respect to provisions relating exclusively to the election of directors by nonregional member countries, a two-thirds majority of the governors of the nonregional members, and, with respect to provisions relating exclusively to the number and election of directors by the remaining member countries, by a two-thirds majority of the governors of regional members. Any change in the aforementioned regulations shall require the same majority of votes for its approval.

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[39] The words "including an absolute majority of the governors of regional members," were added by action of the Board of Governors, June 1, 1976 (TIAS 8383).

[40] This subsection was amended and restated by action of the Board of Governors on March 23, 1972 (TIAS 7437). Section (j) was added by the amendment of April 28, 1964 (21 UST 157; TIAS 6920), and repealed by action of March 23, 1972 (TIAS 7437). It reads as follows:

"(j) Upon the admission to the Bank of new members, having votes totalling not less than 22,000, the Board of Governors may, by a two-thirds majority of the total number of governors representing not less than three-fourths of the total voting power of the member countries, increase by one the number of Executive Directors to be elected."

[41] Subparagraph (ii) was amended and restated by action of the Board of Governors, June 1, 1976 (TIAS 8383).

(iii) Executive directors shall be appointed or elected for terms of three years and may be reappointed or reelected for successive terms.

(c)[40] Each executive director shall appoint an alternate who shall have full power to act for him when he is not present. Directors and alternates shall be citizens of the member countries. None of the elected directors and their alternates may be of the same citizenship, except in the case of countries that are not borrowers. Alternates may participate in meetings but may vote only when they are acting in place of their principals.

(d) Directors shall continue in office until their successors are appointed or elected. If the office of an elected director becomes vacant more than 180 days before the end of his term, a successor shall be elected for the remainder of the term by the governors who elected the former director. An absolute majority of the votes cast shall be required for election. While the office remains vacant, the alternate shall have all the powers of the former director except the power to appoint an alternate.

(e) The Board of Executive Directors shall function in continuous session at the principal office of the Bank and shall meet as often as the business of the Bank may require.

(f) A quorum for any meeting of the Board of Executive Directors shall be an absolute majority of the total number of directors, including an absolute majority of regional members,[42] representing not less than two-thirds of the total voting power of the member countries.

(g) A member of the Bank may send a representative to attend any meeting of the Board of Executive Directors when a matter especially affecting that member is under consideration. Such right of representation shall be regulated by the Board of Governors.

(h) The Board of Executive Directors may appoint such committees as it deems advisable. Membership of such committees need not be limited to governors, directors, or alternates.

(i) The Board of Executive Directors shall determine the basic organization of the Bank, including the number and general responsibilities of the chief administrative and professional positions of the staff, and shall approve the budget of the Bank.

Sec. 4.[43] Voting

(a) Each member country shall have 135 votes plus one vote for each share of ordinary capital stock and for each share of inter-regional capital stock of the Bank held by that country, provided, however, that, in connection with any increase in the authorized ordinary or inter-regional capital stock, the Board of Governors may determine that the capital stock authorized by such increase shall not have voting rights and that such increase of stock shall not be subject to the preemptive rights established in Article II, Section 3(b).

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[42] The words ", including an absolute majority of regional members," were added by action of the Board of Governors, June 1, 1976 (TIAS 8383).

[43] Sec. 4 was amended and restated by action of the Board of Governors, June 1, 1976 (TIAS 8383).

(b) No increase in the subscription of any member to either the ordinary capital stock or the inter-regional capital stock shall become effective, and any right to subscribe thereto is hereby waived, which would have the effect of reducing the voting power (i) of the regional developing members below 53.5 percent of the total voting power of the member countries; (ii) of the member having the largest number of shares below 34.5 percent of such total voting power; or (iii) of Canada below 4 percent of such total voting power.

(c) In voting in the Board of Governors, each governor shall be entitled to cast the votes of the member country which he represents. Except as otherwise specifically provided in this Agreement, all matters before the Board of Governors shall be decided by a majority of the total voting power of the member countries.

(d) In voting in the Board of Executive Directors:

(i) the appointed director shall be entitled to cast the number of votes of the member country which appointed him;

(ii) each elected director shall be entitled to cast the number of votes that counted toward his election, which votes shall be cast as a unit; and

(iii) except as otherwise specifically provided in this Agreement, all matters before the Board of Executive Directors shall be decided by a majority of the total voting power of the member countries.

Sec. 5. President, Executive Vice President, and Staff

(a)[44] The Board of Governors, by a majority of the total voting power of the member countries, including an absolute majority of the governors of regional members, shall elect a President of the Bank who, while holding office, shall not be a governor or an executive director or alternate for either.

Under the direction of the Board of Executive Directors, the President of the Bank shall conduct the ordinary business of the Bank and shall be chief of its staff. He also shall be the presiding officer at meetings of the Board of Executive Directors, but shall have no vote, except that it shall be his duty to cast a deciding vote when necessary to break a tie.

The President of the Bank shall be the legal representative of the Bank. The term of office of the President of the Bank shall be five years, and he may be reelected to successive terms. He shall cease to hold office when the Board of Governors so decides by a majority of the total voting power of the member countries, including a majority of the total voting power of the regional member countries.

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[44] Subsection (a) was amended and restated by action of the Board of Governors, June 1, 1976 (TIAS 8383).

(b) The Executive Vice President shall be appointed by the Board of Executive Directors on the recommendation of the President of the Bank. Under the direction of the Board of Executive Directors and the President of the Bank, the Executive Vice President shall exercise such authority and perform such functions in the administration of the Bank as may be determined by the Board of the Executive Directors. In the absence or incapacity of the President of the Bank, the Executive Vice President shall exercise the authority and perform the functions of the President.

The Executive Vice President shall participate in meetings of the Board of Executive Directors but shall have no vote at such meetings, except that he shall cast the deciding vote, as provided in paragraph (a) of this section, when he is acting in place of the President of the Bank.

(c) In addition to the Vice President referred to in Article IV, Section 8(b), the Board of Executive Directors may, on recommendation of the President of the Bank, appoint other vice presidents who shall exercise such authority and perform such functions as the Board of Executive Directors may determine.

(d) The President, officers, and staff of the Bank, in the discharge of their offices, owe their duty entirely to the Bank and shall recognize no other authority. Each member of the Bank shall respect the international character of this duty.

(e) The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall also be paid to the importance of recruiting the staff on as wide a geographical basis as possible, taking into account the regional character of the institution.[45]

(f) The Bank, its officers and employees, shall not interfere in the political affairs of any member, nor shall they be influenced in their decisions by the political character of the member or members concerned. Only economic considerations shall be relevant to their decisions, and these considerations shall be weighted impartially in order to achieve the purpose and functions stated in Article I.

Sec. 6. Publication of Reports and Provision of Information

(a)[46] The Bank shall publish an annual report containing separate audited statements of the accounts of the ordinary capital resources and of the inter-regional capital resources. It shall also transmit quarterly to the members summary statements of the financial position and profit-and-loss statements showing separately the results of its ordinary operations and its inter-regional resources operations.

(b) The Bank may also publish such other reports as it deems desirable to carry out its purpose and functions.

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[45] The words "taking into account the regional character of the institution" were added by action of the Board of Governors, June 1, 1976 (TIAS 8383).

[46] Subsection (a) was amended and restated by action of the Board of Governors, June 1, 1976 (TIAS 8383).

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ARTICLE IX. WITHDRAWAL AND SUSPENSION OF MEMBERS

Section 1. Right To Withdraw

Any member may withdraw from the Bank by delivering to the Bank at its principal office written notice of its intention to do so. Such withdrawal shall become finally effective on the date specified in the notice but in no event less than six months after the notice is delivered to the Bank. However, at any time before the withdrawal becomes finally effective, the member may notify the Bank in writing of the cancellation of its notice of intention to withdraw.

After withdrawing, a member shall remain liable for all direct and contingent obligations to the Bank to which it was subject at the date of delivery of the withdrawal notice, including those specified in Section 3 of this article. However, if the withdrawal becomes finally effective, the member shall not incur any liability for obligations resulting from operations of the Bank effected after the date on which the withdrawal notice was received by the Bank.

Sec. 2. Suspension of Membership

If a member fails to fulfill any of its obligations to the Bank, the Bank may suspend its membership by decision of the Board of Governors by a three-fourths majority of the total voting power of the member countries, including a two-thirds majority of the total number of governors, which, in the case of suspension of a regional member country, shall include a two-thirds majority of the governors of regional members and, in the case of suspension of a non-regional member country, a two-thirds majority of the governors of non-regional members.[47]

The member so suspended shall automatically cease to be a member of the Bank one year from the date of its suspension unless the Board of Governors decides by the same majority to terminate the suspension.

While under suspension, a member shall not be entitled to exercise any rights under this Agreement, except the right of withdrawal, but shall remain subject to all its obligations.

Sec. 3. Settlement of Accounts

(a) After a country ceases to be a member, it no longer shall share in the profits or losses of the Bank, nor shall it incur any liability with respect to loans and guarantees entered into by the Bank thereafter. However, it shall remain liable for all amounts it owes the Bank and for its contingent liabilities to the Bank so long as any part of the loans or guarantees contracted by the Bank before the date on which the country ceased to be a member remains outstanding.

(b) When a country ceases to be a member, the Bank shall arrange for the repurchase of such country's capital stock as a part of the settlement of accounts pursuant to the provisions of this section; but the country shall have no other rights under this Agree-

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[47] The first paragraph of sec. 2 was amended and restated by action of the Board of Governors, June 1, 1976 (TIAS 8383).

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ment except as provided in this section and in Article XIII, Section 2.

(c) The Bank and the country ceasing to be a member may agree on the repurchase of the capital stock on such terms as are deemed appropriate in the circumstances, without regard to the provisions of the following paragraph. Such agreement may provide, among other things, for a final settlement of all obligations of the country to the Bank.

(d) If the agreement referred to in the preceding paragraph has not been consummated within six months after the country ceases to be a member or such other time as the Bank and such country may agree upon, the repurchase price of such country's capital stock shall be its book value, according to the books of the Bank, on the date when the country ceased to be a member. Such repurchase shall be subject to the following conditions:

(i) As a prerequisite for payment, the country ceasing to be a member shall surrender its stock certificates, and such payment may be made in such installments, at such times and in such available currencies as the Bank determines, taking into account the financial position of the Bank.

(ii) Any amount which the Bank owes the country for the repurchase of its capital stock shall be withheld to the extent that the country or any of its subdivisions or agencies remains liable to the Bank as a result of loan or guarantee operations. The amount withheld may, at the option of the Bank, be applied on any such liability as it matures. However, no amount shall be withheld on account of the country's contingent liability for future calls on its subscription pursuant to Article II, Section 4(a)(ii), or Article IIA, Section 3(c).[48]

(iii) If the Bank sustains net losses on any loans or participations, or as a result of any guarantees, outstanding on the date the country ceased to be a member, and the amount of such losses exceeds the amount of the reserves provided therefor on such date, such country shall repay on demand the amount by which the repurchase price of its shares would have been reduced, if the losses had been taken into account when the book value of the shares, according to the books of the Bank, was determined. In addition, the former member shall remain liable on any call pursuant to Article II, Section 4(a)(ii), or Article IIA, Section 3(c),[48] to the extent that it would have been required to respond if the impairment of capital had occurred and the call had been made at the time the repurchase price of its share had been determined.

(e) In no event shall any amount due to a country for its shares under this section be paid until six months after the date upon which the country ceases to be a member. If within that period the Bank terminates operations, all rights of such country shall be determined by the provisions of Article X, and such country shall be considered still a member of the Bank for the purposes of such article except that it shall have no voting rights.

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[48] The words "or Article IIA, Section 3(c)" were added by action of the Board of Governors, June 1, 1976 (TIAS 8383).

ARTICLE X. SUSPENSION AND TERMINATION OF OPERATIONS

Section 1. Suspension of Operations

In an emergency the Board of Executive Directors may suspend operations in respect of new loans and guarantees until such time as the Board of Governors may have an opportunity to consider the situation and take pertinent measures.

Sec. 2.[49] Termination of Operations

The Bank may terminate its operations by a decision of the Board of Governors by a three-fourths majority of the total voting power of the member countries, including a two-thirds majority of the governors of regional members. After such termination of operations the Bank shall forthwith cease all activities, except those incident to the conservation, preservation, and realization of its assets and settlement of its obligations.

Sec. 3. Liability of Members and Payment of Claims

(a) The liability of all members arising from the subscriptions to the capital stock of the Bank and in respect to the depreciation of their currencies shall continue until all direct and contingent obligations shall have been discharged.

(b) All creditors holding direct claims shall be paid out of the assets of the Bank to which such claims are chargeable[50] and then out of payments to the Bank on unpaid or callable subscriptions to which such claims are chargeable.[50] Before making any payments to creditors holding direct claims, the Board of Executive Directors shall make such arrangements as are necessary, in its judgment, to ensure a pro rata distribution among holders of direct and contingent claims.

Sec. 4. Distribution of Assets

(a)[51] No distribution of assets shall be made to members on account of their subscriptions to the capital stock of the Bank until all liabilities to creditors chargeable to such capital stock shall have been discharged or provided for. Moreover, such distribution must be approved by a decision of the Board of Governors by a three-fourths majority of the total voting power of the member countries, including a two-thirds majority of the governors of regional members.

(b) Any distribution of the assets of the Bank to the members shall be in proportion to capital stock held by each member and shall be effected at such times and under such conditions as the Bank shall deem fair and equitable. The shares of assets distributed need not be uniform as to type of assets. No member shall be entitled to receive its share in such a distribution of assets until it has settled all of its obligations to the Bank.

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[49] Sec. 2 was amended and restated by action of the Board of Governors, June 1, 1976 (TIAS 8383).

[50] The words "to which such claims are chargeable" were added by action of the Board of Governors, June 1, 1976 (TIAS 8383).

[51] Subsection (a) was amended and restated by action of the Board of Governors, June 1, 1976 (TIAS 8383).

(c) Any member receiving assets distributed pursuant to this article shall enjoy the same rights with respect to such assets as the Bank enjoyed prior to their distribution.

ARTICLE XI. IMMUNITIES AND PRIVILEGES

Section 1. Scope of Article

To enable the Bank to fulfill its purpose and the functions with which it is entrusted, the status, immunities, and privileges set forth in this article shall be accorded to the Bank in the territories of each member.

Sec. 2. Legal Status

The Bank shall possess juridical personality and, in particular, full capacity—

(a) to contract;

(b) to acquire and dispose of immovable and movable property; and

(c) to institute legal proceedings.

Sec. 3. Judicial Proceedings

Actions may be brought against the Bank only in a court of competent jurisdiction in the territories of a member in which the Bank has an office, has appointed an agent for the purpose of accepting service or notice of processes, or has issued or guaranteed securities.

No action shall be brought against the Bank by members or persons acting for or deriving claims from members. However, member countries shall have recourse to such special procedures to settle controversies between the Bank and its members as may be prescribed in this Agreement, in the bylaws and regulations of the Bank or in contracts entered into with the Bank.

Property and assets of the Banks shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank.

Sec. 4. Immunity of Assets

Property and assets of the Bank, wheresoever located and by whomsoever held, shall be considered public international property and shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

Sec. 5. Inviolability of Archives

The archives of the Bank shall be inviolable.

Sec. 6. Freedom of Assets From Restrictions

To the extent necessary to carry out the purpose and functions of the Bank and to conduct operations in accordance with this Agreement, all property and other assets of the Bank shall be free from restrictions, regulations, controls and moratoria of any nature, except as may otherwise be provided in this Agreement.

Sec. 7. Privilege for Communications

The official communications of the Bank shall be accorded by each member the same treatment that it accords to the official communications of other members.

Sec. 8. Personal Immunities and Privileges

All governors, executive directors, alternates, officers and employees of the Bank shall have the following privileges and immunities:

(a) Immunity from legal process with respect to acts performed by them in their official capacity, except when the Bank waives this immunity.

(b) When not local nationals, the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange provisions as are accorded by members to the representatives, officials, and employees of comparable rank of other members.

(c) The same privileges in respect of traveling facilities as are accorded by members to representatives, officials, and employees of comparable rank of other members.

Sec. 9. Immunities From Taxation

(a) The Bank, its property, other assets, income, and the operations and transactions it carries out pursuant to this Agreement, shall be immune from all taxation and from all customs duties. The Bank shall also be immune from any obligation relating to the payment, withholding or collection of any tax, or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to executive directors, alternates, officials or employees of the Bank who are not local citizens or other local nationals.

(c) No tax of any kind shall be levied on any obligation or security issued by the Bank, including any dividend or interest thereon, by whomsoever held—

(i) which discriminates against such obligation or security solely because it is issued by the Bank; or

(ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank.

(d) No tax of any kind shall be levied on any obligation or security guaranteed by the Bank, including any dividend or interest thereon, by whomsoever held—

(i) which discriminates against such obligation or security solely because it is guaranteed by the Bank; or

(ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.

Sec. 10. Implementation

Each member, in accordance with its juridical system, shall take such action as is necessary to make effective in its own territories the principles set forth in this article, and shall inform the Bank of the action which it has taken on the matter.

ARTICLE XII. AMENDMENTS

(a) [52] (i) This agreement may be amended only by decision of the Board of Governors by a majority of the total number of governors, including two-thirds of the governors of regional members, representing not less than three-fourths of the total voting power of the member countries, provided, however, that the voting majorities provided in Article II, Section 1(b), may be amended only by the voting majorities stated therein.

(ii) The relevant articles of the Agreement may be amended as provided in paragraph (a)(i) above to provide for the merger of the inter-regional capital stock and the ordinary capital stock at such time as the Bank shall have discharged its liabilities on all its ordinary capital borrowing which were outstanding at December 31, 1974.

(b) [52] Notwithstanding the provisions of (a) above, the unanimous agreement of the Board of Governors shall be required for the approval of any amendment modifying:

(i) the right to withdraw from the Bank as provided in Article IX, Section 1;

(ii) the right to purchase capital stock of the Bank and to contribute to the Fund as provided in Article II, Section 3(b) and in Article IV, Section 3(g), respectively; and

(iii) the limitation on liability as provided in Article II, Section 3(d), Article IIA, Section 2(e), and Article IV, Section 5.

(c) Any proposal to amend this Agreement, whether emanating from a member or the Board of Executive Directors, shall be communicated to the Chairman of the Board of Governors, who shall bring the proposal before the Board of Governors. When an amendment has been adopted, the Bank shall so certify in an official communication addressed to all members. Amendments shall enter into force for all members three months after the date of the official communication unless the Board of Governors shall specify a different period.

ARTICLE XIII. INTERPRETATION AND ARBITRATION

Section 1. Interpretation

(a) Any question of interpretation of the provisions of this Agreement arising between any member and the Bank or between any members of the Bank shall be submitted to the Board of Executive Directors for decision.

Members especially affected by the question under consideration shall be entitled to direct representation before the Board of Executive Directors as provided in Article VIII, Section 3(g).

(b) In any case where the Board of Executive Directors has given a decision under (a) above, any member may require that the question be submitted to the Board of Governors, whose decision shall be final. Pending the decision of the Board of Governors, the Bank may, so far as it deems it necessary, act on the basis of the decision of the Board of Executive Directors.

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[52] Paragraphs (a) and (b) were amended and restated by action of the Board of Governors, June 1, 1976 (TIAS 8383).

Sec. 2. Arbitration

If a disagreement should arise between the Bank and a country which has ceased to be a member, or between the Bank and any member after adoption of a decision to terminate the operation of the Bank such disagreement shall be submitted to arbitration by a tribunal of three arbitrators. One of the arbitrators shall be appointed by the Bank, another by the country concerned, and the third, unless the parties otherwise agree, by the Secretary General of the Organization of American States. If all efforts to reach an unanimous agreement fail, decisions shall be made by a majority vote of the three arbitrators.

The third arbitrator shall be empowered to settle all questions of procedure in any case where the parties are in disagreement with respect thereto.

ARTICLE XIV. GENERAL PROVISIONS

Section 1. Principal Office

The principal office of the Bank shall be located in Washington, District of Columbia, United States of America.

Sec. 2. Relations With Other Organizations

The Bank may enter into arrangements with other organizations with respect to the exchange of information or for other purposes consistent with this Agreement.

Sec. 3. Channel of Communication

Each member shall designate an official entity for purposes of communication with the Bank on matters connected with this Agreement.

Sec. 4. Depositories

Each member shall designate its central bank as a depository in which the Bank may keep its holdings of such member's currency and other assets of the Bank. If a member has no central bank, it shall, in agreement with the Bank, designate another institution for such purpose.

ARTICLE XV. FINAL PROVISIONS

Section 1. Signature and Acceptance

(a) This Agreement shall be deposited with the General Secretariat of the Organization of American States, where it shall remain open until December 31, 1959, for signature by the representatives of the countries listed in Annex A. Each signatory country shall deposit with the General Secretariat of the Organization of American States an instrument setting forth that it has accepted or ratified this Agreement in accordance with its own laws and has taken the steps necessary to enable it to fulfill all of its obligations under this Agreement.

(b) The General Secretariat of the Organization of American States shall send certified copies of this Agreement to the members of the Organization and duly notify them of each signature and deposit of the instrument of acceptance or ratification made pursuant to the foregoing paragraph, as well as the date thereof.

(c) At the time the instrument of acceptance or ratification is deposited on its behalf, each country shall deliver to the General Secretariat of the Organization of American States, for the purpose of meeting administrative expenses of the Bank, gold or United States dollars equivalent to one-tenth of one percent of the purchase price of the shares of the Bank subscribed by it and of its quota in the Fund. This payment shall be credited to the member on account of its subscription and quota prescribed pursuant to Articles II, Section 4(a)(i), and IV, Section 3(d)(i). At any time on or after the date on which its instrument of acceptance or ratification is deposited, any member may make additional payments to be credited to the member on account of its subscription and quota prescribed pursuant to Articles II and IV. The General Secretariat of the Organization of American States shall hold all funds paid under this paragraph in a special deposit account or accounts and shall make such funds available to the Bank not later than the time of the first meeting of the Board of Governors held pursuant to Section 3 of this article. If this Agreement has not come into force by December 31, 1959, the General Secretariat of the Organization of American States shall return such funds to the countries that delivered them.

(d) On or after the date on which the Bank commences operations, the General Secretariat of the Organization of American States may receive the signature and the instrument of acceptance or ratification of this Agreement from any country whose membership has been approved in accordance with Article II, Section 1(b).

Sec. 2. Entry Into Force

(a) This Agreement shall enter into force when it has been signed and instruments of acceptance or ratification have been deposited, in accordance with Section 1(a) of this article, by representatives of countries whose subscriptions comprise not less than 85 percent of the total subscriptions set forth in Annex A.

(b) Countries whose instruments of acceptance or ratification were deposited prior to the date on which the agreement entered into force shall become members on that date. Other countries shall become members on the dates on which their instruments of acceptance or ratification are deposited.

Sec. 3. Commencement of Operations

(a) The Secretary General of the Organization of American States shall call the first meeting of the Board of Governors as soon as this Agreement enters into force under Section 2 of this article.

(b) At the first meeting of the Board of Governors arrangements shall be made for the selection of the executive directors and their alternates in accordance with the provisions of Article VIII, Section 3, and for the determination of the date on which the Bank shall commence operations. Notwithstanding the provisions of Article VII, Section 3, the governors, if they deem it desirable, may provide that the first term to be served by such directors may be less than three years.

DONE at the city of Washington, District of Columbia, United States of America, in a single original, dated April 8, 1959, whose English, French, Portuguese, and Spanish texts are equally authentic.

ANNEX A—SUBSCRIPTIONS TO AUTHORIZED CAPITAL STOCK OF THE BANK [1]

[In shares of US $10,000 of the weight and fineness in effect on Jan. 1, 1959]

Country	Paid-in capital shares	Callable shares	Total subscription
Argentina	5,157	5,157	10,314
Bolivia	414	414	828
Brazil	5,157	5,157	10,314
Chile	1,416	1,416	2,832
Colombia	1,415	1,415	2,830
Costa Rica	207	207	414
Cuba [2]	1,842	1,842	3,684
Dominican Republic	276	276	552
Ecuador	276	276	552
El Salvador	207	207	414
Guatemala	276	276	552
Haiti	207	207	414
Honduras	207	207	414
Mexico	3,315	3,315	6,630
Nicaragua	207	207	414
Panama	207	207	414
Paraguay	207	207	414
Peru	691	691	1,382
United States of America	15,000	20,000	35,000
Uruguay	553	553	1,106
Venezuela	2,763	2,763	5,526
Total	40,000	45,000	85,000

ANNEX B—CONTRIBUTION QUOTAS FOR THE FUND FOR SPECIAL OPERATIONS[1]

[In thousands of U.S. dollars of the weight and fineness in effect on Jan. 1, 1959]

Country:	Quota
Argentina	10,314
Bolivia	828
Brazil	10,314
Chile	2,832
Colombia	2,830
Costa Rica	414
Cuba[2]	3,684
Dominican Republic	552
Ecuador	552
El Salvador	414
Guatemala	552
Haiti	414
Honduras	414
Mexico	6,630
Nicaragua	414
Panama	414
Paraguay	414
Peru	1,382
United States of America	100,000
Uruguay	1,106
Venezuela	5,523
Total	150,000

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[1] Subsequent changes in membership subscription and quotas are not reflected in Annexes A and B.

[2] Cuba never became a member of the Inter-American Development Bank and her shares are carried as "unassigned."

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5. Articles of Agreement of the International Development Association

CONTENTS

Page

Introductory Article 515

I. Purposes 515

II. Membership; Initial Subscriptions 516
  1. Membership 516
  2. Initial Subscriptions 516
  3. Limitation on Liability 517

III. Additions to Resources 517
  1. Additional Subscriptions 517
  2. Supplementary Resources Provided by a Member in the Currency of Another Member 518

IV. Currencies 518
  1. Use of Currencies 518
  2. Maintenance of Value of Currency Holdings 519

V. Operations 520
  1. Use of Resources and Conditions of Financing 520
  2. Form and Terms of Financing 520
  3. Modifications of Terms of Financing 521
  4. Cooperation With Other International Organizations and Members Providing Development Assistance 521
  5. Miscellaneous Operations 521
  6. Political Activity Prohibited 522

VI. Organization and Management 522
  1. Structure of the Association 522
  2. Board of Governors 522
  3. Voting 523
  4. Executive Directors 523
  5. President and Staff 524
  6. Relationship to the Bank 524
  7. Relations With Other International Organizations 525
  8. Location of Offices 525
  9. Depositories 525
  10. Channel of Communication 525
  11. Publication of Reports and Provision of Information 525
  12. Disposition of Net Income 525

VII. Withdrawal; Suspension of Membership; Suspension of Operations 525
  1. Withdrawal by Members 525
  2. Suspension of Membership 526
  3. Suspension or Cessation of Membership in the Bank 526
  4. Rights and Duties of Governments Ceasing To Be Members 526
  5. Suspension of Operations and Settlement of Obligations 526

VIII. Status, Immunities and Privileges 527
  1. Purposes of Article 528
  2. Status of the Association 528
  3. Position of the Association with Regard to Judicial Process 528
  4. Immunity of Assets From Seizure 529
  5. Immunity of Archives 529
  6. Freedom of Assets From Restrictions 529
  7. Privilege for Communications 529
  8. Immunities and Privileges of Officers and Employees 529
  9. Immunities From Taxation 529
  10. Application of Article 530

IX. Amendments 530

X. Interpretation and Arbitration 531

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Page

XI. Final Provision 531
  1. Entry Into Force 531
  2. Signature 531
  3. Territorial Application 532
  4. Inauguration of the Association 532
  5. Registration 532

5. Articles of Agreement of the International Development Association[1]

Articles of agreement approved at Washington by the Executive Directors of the International Bank for Reconstruction and Development January 26, 1960. Signed for the United States of America August 9, 1960; Instrument of acceptance by the United States of America deposited August 9, 1960; Entered into force September 24, 1960

The Governments on whose behalf this Agreement is signed,

Considering:

That mutual cooperation for constructive economic purposes, healthy development of the world economy and balanced growth of international trade foster international relationships conducive to the maintenance of peace and world prosperity;

That an acceleration of economic development which will promote higher standards of living and economic and social progress in the less-developed countries is desirable not only in the interests of those countries but also in the interests of the international community as a whole;

That achievement of these objectives would be facilitated by an increase in the international flow of capital, public and private, to assist in the development of the resources of the less-developed countries, do hereby agree as follows:

INTRODUCTORY ARTICLE

The INTERNATIONAL DEVELOPMENT ASSOCIATION (hereinafter called "the Association") is established and shall operate in accordance with the following provisions:

ARTICLE I

PURPOSES

The purposes of the Association are to promote economic development, increase productivity and thus raise standards of living in the less-developed areas of the world included within the Association's membership, in particular by providing finance to meet their important developmental requirements on terms which are more flexible and bear less heavily on the balance of payments than those of conventional loans, thereby furthering the developmental objectives of the International Bank for Reconstruction and Development (hereinafter called "the Bank") and supplementing its activities.

The Association shall be guided in all its decisions by the provisions of this Article.

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[1] 11 UST 2284; TIAS 4607; 439 UNTS 249. For a list of states which are parties, see Department of State publication, *Treaties in Force.*

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ARTICLE II

MEMBERSHIP; INITIAL SUBSCRIPTIONS

Section 1. Membership

(a) The original members of the Association shall be those members of the Bank listed in Schedule A hereto which, on or before the date specified in Article XI, Section 2(c), accept membership in the Association.

(b) Membership shall be open to other members of the Bank at such times and in accordance with such terms as the Association may determine.

Sec. 2. Initial Subscriptions

(a) Upon accepting membership, each member shall subscribe funds in the amount assigned to it. Such subscriptions are herein referred to as initial subscriptions.

(b) The initial subscription assigned to each original member shall be in the amount set forth opposite its name in Schedule A, expressed in terms of United States dollars of the weight and fineness in effect on January 1, 1960.

(c) Ten percent of the initial subscription of each original member shall be payable in gold or freely convertible currency as follows: fifty percent within thirty days after the date on which the Association shall begin operations pursuant to Article XI, Section 4, or on the date on which the original member becomes a member, whichever shall be later; twelve and one-half percent one year after the beginning of operations of the Association; and twelve and one-half percent each year thereafter at annual intervals until the ten percent portion of the initial subscription shall have been paid in full.

(d) The remaining ninety percent of the initial subscription of each original member shall be payable in gold or freely convertible currency in the case of members listed in Part I of Schedule A, and in the currency of the subscribing member in the case of members listed in Part II of Schedule A. This ninety percent portion of initial subscriptions of original members shall be payable in five equal annual installments as follows: the first such installment within thirty days after the date on which the Association shall begin operations pursuant to Article XI, Section 4, or on the date on which the original member becomes a member, whichever shall be later; the second installment one year after the beginning of operations of the Association, and succeeding installments each year thereafter at annual intervals until the ninety percent portion of the initial subscription shall have been paid in full.

(e) The Association shall accept from any member, in place of any part of the member's currency paid in or payable by the member under the preceding subsection (d) or under Section 2 of Article IV and not needed by the Association in its operations, notes or similar obligations issued by the government of the member or the depository designated by such member, which shall be non-negotiable, non-interest-bearing and payable at their par value on demand to the account of the Association in the designated depository.

(f) For the purposes of this Agreement the Association shall regard as "freely convertible currency":

(i) currency of a member which the Association determines, after consultation with the International Monetary Fund, is adequately convertible into the currencies of other members for the purposes of the Association's operations; or

(ii) currency of a member which such member agrees, on terms satisfactory to the Association, to exchange for the currencies of other members for the purposes of the Association's operations.

(g) Except as the Association may otherwise agree, each member listed in Part I of Schedule A shall maintain, in respect of its currency paid in by it as freely convertible currency pursuant to subsection (d) of this Section, the same convertibility as existed at the time of payment.

(h) The conditions on which the initial subscriptions of members other than original members may be made, and the amounts and the terms of payment thereof, shall be determined by the Association pursuant to Section 1(b) of this Article.

Sec. 3. Limitation on Liability

No member shall be liable, by reason of its membership, for obligations of the Association.

ARTICLE III

ADDITIONS TO RESOURCES

Section 1. Additional Subscriptions

(a) The Association shall at such time as it deems appropriate in the light of the schedule for completion of payments on initial subscriptions of original members, and at intervals of approximately five years thereafter, review the adequacy of its resources and, if it deems desirable, shall authorize a general increase in subscriptions. Notwithstanding the foregoing, general or individual increases in subscriptions may be authorized at any time, provided that an individual increase shall be considered only at the request of the member involved. Subscriptions pursuant to this Section are herein referred to as additional subscriptions.

(b) Subject to the provisions of paragraph (c) below, when additional subscriptions are authorized, the amounts authorized for subscription and the terms and conditions relating thereto shall be as determined by the Association.

(c) When any additional subscription is authorized, each member shall be given an opportunity to subscribe, under such conditions as shall be reasonably determined by the Association, an amount which will enable it to maintain its relative voting power, but no member shall be obligated to subscribe.

(d) All decisions under this Section shall be made by a two-thirds majority of the total voting power.

Sec. 2. Supplementary Resources Provided by a Member in the Currency of Another Member

(a) The Association may enter into arrangements, on such terms and conditions consistent with the provisions of this Agreement as may be agreed upon, to receive from any member, in addition to the amounts payable by such member on account of its initial or any additional subscription, supplementary resources in the currency of another member, provided that the Association shall not enter into any such arrangement unless the Association is satisfied that the member whose currency is involved agrees to the use of such currency as supplementary resources and to the terms and conditions governing such use. The arrangements under which any such resources are received may include provisions regarding the disposition of earnings on the resources and regarding the disposition of the resources in the event that the member providing them ceases to be a member or the Association permanently suspends its operations.

(b) The Association shall deliver to the contributing member a Special Development Certificate setting forth the amount and currency of the resources so contributed and the terms and conditions of the arrangement relating to such resources. A Special Development Certificate shall not carry any voting rights and shall be transferable only to the Association.

(c) Nothing in this Section shall preclude the Association from accepting resources from a member in its own currency on such terms as may be agreed upon.

ARTICLE IV

CURRENCIES

Section 1. Use of Currencies

(a) Currency of any member listed in Part II of Schedule A, whether or not freely convertible, received by the Association pursuant to Article II, Section 2(d), in payment of the ninety percent portion payable thereunder in the currency of such member, and currency of such member derived therefrom as principal, interest or other charges, may be used by the Association for administrative expenses incurred by the Association in the territories of such member and, insofar as consistent with sound monetary policies in payment for goods and services produced in the territories of such member and required for projects financed by the Association and located in such territories; and in addition when and to the extent justified by the economic and financial situation of the member concerned as determined by agreement between the member and the Association, such currency shall be freely convertible or otherwise usable for projects financed by the Association and located outside the territories of the member.

(b) The usability of currencies received by the Association in payment of subscriptions other than initial subscriptions of original members, and currencies derived therefrom as principal, interest or other charges, shall be governed by the terms and conditions on which such subscriptions are authorized.

(c) The usability of currencies received by the Association as supplementary resources other than subscriptions, and currencies derived therefrom, as principal, interest or other charges, shall be governed by the terms of the arrangements pursuant to which such currencies are received.

(d) All other currencies received by the Association may be freely used and exchanged by the Association and shall not be subject to any restriction by the member whose currency is used or exchanged; provided that the foregoing shall not preclude the Association from entering into any arrangements with the member in whose territories any project financed by the Association is located restricting the use by the Association of such member's currency received as principal, interest or other charges in connection with such financing.

(e) The Association shall take appropriate steps to ensure that, over reasonable intervals of time, the portions of the subscriptions paid under Article II, Section 2(d) by members listed in Part I of Schedule A shall be used by the Association on an approximately *pro rata* basis, provided, however, that such portions of such subscriptions as are paid in gold or in a currency other than that of the subscribing member may be used more rapidly.

Sec. 2. Maintenance of Value of Currency Holdings

(a) Whenever the par value of a member's currency is reduced or the foreign exchange value of a member's currency has, in the opinion of the Association, depreciated to a significant extent within that member's territories, the member shall pay to the Association within a reasonable time an additional amount of its own currency sufficient to maintain the value, as of the time of subscription, of the amount of the currency of such member paid in to the Association by the member under Article II, Section 2(d), and currency furnished under the provisions of the present paragraph, whether or not such currency is held in the form of notes accepted pursuant to Article II, Section 2(e), provided, however, that the foregoing shall apply only so long as and to the extent that such currency shall not have been initially disbursed or exchanged for the currency of another member.

(b) Whenever the par value of a member's currency is increased, or the foreign exchange value of a member's currency has, in the opinion of the Association, appreciated to a significant extent within that member's territories, the Association shall return to such member within a reasonable time an amount of that member's currency equal to the increase in the value of the amount of such currency to which the provisions of paragraph (a) of this Section are applicable.

(c) The provisions of the preceding paragraph may be waived by the Association when a uniform proportionate change in the par value of the currencies of all its members is made by the International Monetary Fund.

(d) Amounts furnished under the provisions of paragraph (a) of this Section to maintain the value of any currency shall be convertible and usable to the same extent as such currency.

ARTICLE V

OPERATIONS

Section 1. Use of Resources and Conditions of Financing

(a) The Association shall provide financing to further development in the less-developed areas of the world included within the Association's membership.

(b) Financing provided by the Association shall be for purposes which in the opinion of the Association are of high developmental priority in the light of the needs of the area or area concerned and, except in special circumstances, shall be for specific projects.

(c) The Association shall not provide financing if in its opinion such financing is available from private sources on terms which are reasonable for the recipient or could be provided by a loan of the type made by the Bank.

(d) The Association shall not provide financing except upon the recommendation of a competent committee, made after a careful study of the merits of the proposal. Each such committee shall be appointed by the Association and shall include a nominee of the Governor or Governors representing the member or members in whose territories the project under consideration is located and one or more members of the technical staff of the Association. The requirement that the committee include the nominee of a Governor or Governors shall not apply in the case of financing provided to a public international or regional organization.

(e) The Association shall not provide financing for any project if the member in whose territories the project is located objects to such financing, except that it shall not be necessary for the Association to assure itself that individual members do not object in the case of financing provided to a public international or regional organization.

(f) The Association shall impose no conditions that the proceeds of its financing shall be spent in the territories of any particular member or members. The foregoing shall not preclude the Association from complying with any restrictions on the use of funds imposed in accordance with the provisions of these Articles, including restrictions attached to supplementary resources pursuant to agreement between the Association and the contributor.

(g) The Association shall make arrangements to ensure that the proceeds of any financing are used only for the purposes for which the financing was provided, with due attention to considerations of economy, efficiency and competitive international trade and without regard to political or other noneconomic influences or considerations.

(h) Funds to be provided under any financing operation shall be made available to the recipient only to meet expenses in connection with the project as they are actually incurred.

Sec. 2. Form and Terms of Financing

(a) Financing by the Association shall take the form of loans. The Association may, however, provide other financing, either

(i) out of funds subscribed pursuant to Article III, Section 1, and funds derived therefrom as principal, interest or other charges, if the authorization for such subscriptions expressly provides for such financing;

or

(ii) in special circumstances, out of supplementary resources furnished to the Association, and funds derived therefrom as principal, interest or other charges, if the arrangements under which such resources are furnished expressly authorize such financing.

(b) Subject to the foregoing paragraph, the Association may provide financing in such forms and on such terms as it may deem appropriate, having regard to the economic position and prospects of the area or areas concerned and to the nature and requirements of the project.

(c) The Association may provide financing to a member, the government of a territory included within the Association's membership, a political subdivision of any of the foregoing, a public or private entity in the territories of a member or members, or to a public international or regional organization.

(d) In the case of a loan to an entity other than a member, the Association may, in its discretion, require a suitable governmental or other guarantee or guarantees.

(e) The Association, in special cases, may make foreign exchange available for local expenditures.

Sec. 3. Modifications of Terms of Financing

The Association may, when and to the extent it deems appropriate in the light of all relevant circumstances, including the financial and economic situation and prospects of the member concerned, and on such conditions as it may determine, agree to a relaxation or other modification of the terms on which any of its financing shall have been provided.

Sec. 4. Cooperation With Other International Organizations and Members Providing Development Assistance

The Association shall cooperate with those public international organizations and members which provide financial and technical assistance to the less-developed areas of the world.

Sec. 5. Miscellaneous Operations

In addition to the operations specified elsewhere in this Agreement, the Association may:

(i) borrow funds with the approval of the member in whose currency the loan is denominated;

(ii) guarantee securities in which it has invested in order to facilitate their sale;

(iii) buy and sell securities it has issued or guaranteed or in which it has invested;

(iv) in special cases, guarantee loans from other sources for purposes not inconsistent with the provisions of these Articles;

(v) provide technical assistance and advisory services at the request of a member; and

(vi) exercise such other powers incidental to its operations as shall be necessary or desirable in furtherance of its purposes.

Sec. 6. Political Activity Prohibited

The Association and its officers shall not interfere in the political affairs of any member; nor shall they be influenced in their decisions by the political character of the member or members concerned. Only economic considerations shall be relevant to their decisions, and these considerations shall be weighed impartially in order to achieve the purposes stated in this Agreement.

ARTICLE VI

ORGANIZATION AND MANAGEMENT

Section 1. Structure of the Association

The Association shall have a Board of Governors, Executive Directors, a President and such other officers and staff to perform such duties as the Association may determine.

Sec. 2. Board of Governors

(a) All the powers of the Association shall be vested in the Board of Governors.

(b) Each Governor and Alternate Governor of the Bank appointed by a member of the Bank which is also a member of the Association shall *ex officio* be a Governor and Alternate Governor, respectively, of the Association. No Alternate Governor may vote except in the absence of his principal. The Chairman of the Board of Governors of the Bank shall *ex officio* be Chairman of the Board of Governors of the Association except that if the Chairman of the Board of Governors of the Bank shall represent a state which is not a member of the Association, then the Board of Governors shall select one of the Governors as Chairman of the Board of Governors. Any Governor or Alternate Governor shall cease to hold office if the member by which he was appointed shall cease to be a member of the Association.

(c) The Board of Governors may delegate to the Executive Directors authority to exercise any of its powers, except the power to:

- (i) admit new members and determine the conditions of their admission;
- (ii) authorize additional subscriptions and determine the terms and conditions relating thereto;
- (iii) suspend a member;
- (iv) decide appeals from interpretations of this Agreement given by the Executive Directors;
- (v) make arrangements pursuant to Section 7 of this Article to cooperate with other international organizations (other than informal arrangements of a temporary and administrative character);
- (vi) decide to suspend permanently the operations of the Association and to distribute its assets;
- (vii) determine the distribution of the Association's net income pursuant to Section 12 of this Article; and
- (viii) approve proposed amendments to this Agreement.

(d) The Board of Governors shall hold an annual meeting and such other meetings as may be provided for by the Board of Governors or called by the Executive Directors.

(e) The annual meeting of the Board of Governors shall be held in conjunction with the annual meeting of the Board of Governors of the Bank.

(f) A quorum for any meeting of the Board of Governors shall be a majority of the Governors, exercising not less than two-thirds of the total voting power.

(g) The Association may by regulation establish a procedure whereby the Executive Directors may obtain a vote of the Governors on a specific question without calling a meeting of the Board of Governors.

(h) The Board of Governors, and the Executive Directors to the extent authorized, may adopt such rules and regulations as may be necessary or appropriate to conduct the business of the Association.

(i) Governors and Alternate Governors shall serve as such without compensation from the Association.

Sec. 3. Voting

(a) Each original member shall, in respect of its initial subscription, have 500 votes plus one additional vote for each $5,000 of its initial subscription. Subscriptions other than initial subscriptions of original members shall carry such voting rights as the Board of Governors shall determine pursuant to the provisions of Article II, Section 1(b) or Article III, Section 1 (b) and (c), as the case may be. Additions to resources other than subscriptions under Article II, Section 1(b) and additional subscriptions under Article III, Section 1, shall not carry voting rights.

(b) Except as otherwise specifically provided, all matters before the Association shall be decided by a majority of the votes cast.

Sec. 4. Executive Directors

(a) The Executive Directors shall be responsible for the conduct of the general operations of the Association, and for this purpose shall exercise all the powers given to them by this Agreement or delegated to them by the Board of Governors.

(b) The Executive Directors of the Association shall be composed *ex officio* of each Executive Director of the Bank who shall have been (i) appointed by a member of the Bank which is also a member of the Association, or (ii) elected in an election in which the votes of at least one member of the Bank which is also a member of the Association shall have counted toward his election. The Alternate to each such Executive Director of the Bank shall *ex officio* be an Alternate Director of the Association. Any Director shall cease to hold office if the member by which he was appointed, or if all the members whose votes counted toward his election, shall cease to be members of the Association.

(c) Each Director who is an appointed Executive Director of the Bank shall be entitled to cast the number of votes which the member by which he was appointed is entitled to cast in the Association. Each Director who is an elected Executive Director of the Bank shall be entitled to cast the number of votes which the member or members of the Association whose votes counted toward his election in the Bank are entitled to cast in the Association. All the votes which a Director is entitled to cast shall be cast as a unit.

(d) An Alternate Director shall have full power to act in the absence of the Director who shall have appointed him. When a Director is present, his Alternate may participate in meetings but shall not vote.

(e) A quorum for any meeting of the Executive Directors shall be a majority of the Directors exercising not less than one-half of the total voting power.

(f) The Executive Directors shall meet as often as the business of the Association may require.

(g) The Board of Governors shall adopt regulations under which a member of the Association not entitled to appoint an Executive Director of the Bank may send a representative to attend any meeting of the Executive Directors of the Association when a request made by, or a matter particularly affecting, that member is under consideration.

Sec. 5. President and Staff

(a) The President of the Bank shall be *ex officio* President of the Association. The President shall be Chairman of the Executive Directors of the Association but shall have no vote except a deciding vote in case of an equal division. He may participate in meetings of the Board of Governors but shall not vote at such meetings.

(b) The President shall be chief of the operating staff of the Association. Under the direction of the Executive Directors he shall conduct the ordinary business of the Association and under their general control shall be responsible for the organization, appointment and dismissal of the officers and staff. To the extent practicable, officers and staff of the Bank shall be appointed to serve concurrently as officers and staff of the Association.

(c) The President, officers and staff of the Association, in the discharge of their offices, owe their duty entirely to the Association and to no other authority. Each member of the Association shall respect the international character of this duty and shall refrain from all attempts to influence any of them in the discharge of their duties.

(d) In appointing officers and staff the President shall, subject to the paramount importance of securing the highest standards of efficiency and of technical competence, pay due regard to the importance of recruiting personnel on as wide a geographical basis as possible.

Sec. 6. Relationship to the Bank

(a) The Association shall be an entity separate and distinct from the Bank and the funds of the Association shall be kept separate and apart from those of the Bank. The Association shall not borrow from or lend to the Bank, except that this shall not preclude the Association from investing funds not needed in its financing operations in obligations of the Bank.

(b) The Association may make arrangements with the Bank regarding facilities, personnel, and services and arrangements for reimbursement of administrative expenses paid in the first instance by either organization on behalf of the other.

(c) Nothing in this Agreement shall make the Association liable for the acts or obligations of the Bank, or the Bank liable for the acts or obligations of the Association.

Sec. 7. Relations With Other International Organizations

The Association shall enter into formal arrangements with the United Nations and may enter into such arrangements with other public international organizations having specialized responsibilities in related fields.

Sec. 8. Location of Offices

The principal office of the Association shall be the principal office of the Bank. The Association may establish other offices in the territories of any member.

Sec. 9. Depositories

Each member shall designate its central bank as a depository in which the Association may keep holdings of such member's currency or other assets of the Association, or, if it has no central bank, it shall designate for such purpose such other institution as may be acceptable to the Association. In the absence of any different designation, the depository designated for the Bank shall be the depository for the Association.

Sec. 10. Channel of Communication

Each member shall designate an appropriate authority with which the Association may communicate in connection with any matter arising under this Agreement. In the absence of any different designation, the channel of communication designated for the Bank shall be the channel for the Association.

Sec. 11. Publication of Reports and Provision of Information

(a) The Association shall publish an annual report containing an audited statement of its accounts and shall circulate to members at appropriate intervals a summary statement of its financial position and of the results of its operation.

(b) The Association may publish such other reports as it deems desirable to carry out its purposes.

(c) Copies of all reports, statements, and publications made under this Section shall be distributed to members.

Sec. 12. Disposition of Net Income

The Board of Governors shall determine from time to time the disposition of the Association's net income, having due regard to provisions for reserves and contingencies.

ARTICLE VII

WITHDRAWAL; SUSPENSION OF MEMBERSHIP; SUSPENSION OF OPERATIONS

Section 1. Withdrawal by Members

Any member may withdraw from membership in the Association at any time by transmitting a notice in writing to the Association at its principal office. Withdrawal shall become effective upon the date such notice is received.

Sec. 2. Suspension of Membership

(a) If a member fails to fulfill any of its obligations to the Association, the Association may suspend its membership by decision of a majority of the Governors, exercising a majority of the total voting power. The member so suspended shall automatically cease to be a member one year from the date of its suspension unless a decision is taken by the same majority to restore the member to good standing.

(b) While under suspension, a member shall not be entitled to exercise any rights under this Agreement except the right of withdrawal, but shall remain subject to all obligations.

Sec. 3. Suspension or Cessation of Membership in the Bank

Any member which is suspended from membership in, or ceases to be a member of, the Bank shall automatically be suspended from membership in, or cease to be a member of, the Association, as the case may be.

Sec. 4. Rights and Duties of Governments Ceasing To Be Members

(a) When a government ceases to be a member, it shall have no rights under this Agreement except as provided in this Section and in Article X(c), but it shall, except as in this Section otherwise provided, remain liable for all financial obligations undertaken by it to the Association, whether as a member, borrower, guarantor or otherwise.

(b) When a government ceases to be a member, the Association and the government shall proceed to a settlement of accounts. As part of such settlement of accounts, the Association and the government may agree on the amounts to be paid to the government on account of its subscription and on the time and currencies of payment. The term "subscription" when used in relation to any member government shall for the purposes of this Article be deemed to include both the initial subscription and any additional subscription of such member government.

(c) If no such agreement is reached within six months from the date when the government ceased to be a member, or such other time as may be agreed upon by the Association and the government, the following provision shall apply:

(i) The government shall be relieved of any further liability to the Association on account of its subscription, except that the government shall pay to the Association forthwith amounts due and unpaid on the date when the government ceased to be a member and which in the opinion of the Association are needed by it to meet its commitments as of that date under its financing operations.

(ii) The Association shall return to the government funds paid in by the government on account of its subscription or derived therefrom as principal repayments and held by the Association on the date when the government ceased to be a member, except to the extent that in the opinion of the Association such funds will be needed by it to meet its commitments as of that date under its financing operations.

(iii) The Association shall pay over to the government a *pro rata* share of all principal repayments received by the Association after the date on which the government ceases to be a member on loans contracted prior thereto, except those made out of supplementary resources provided to the Association under arrangements specifying special liquidation rights. Such share shall be such proportion of the total principal amount of such loans as the total amount paid by the government on account of its subscription and not returned to it pursuant to clause (ii) above shall bear to the total amount paid by all members on account of their subscriptions which shall have been used or in the opinion of the Association will be needed by it to meet its commitments under its financing operations as of the date on which the government ceases to be a member. Such payments by the Association shall be made in installments when and as such principal repayments are received by the Association, but not more frequently than annually. Such installments shall be paid in the currencies received by the Association except that the Association may in its discretion make payment in the currency of the government concerned.

(iv) Any amount due to the government on account of its subscription may be withheld so long as that government, or the government of any territory included within its membership, or any political subdivision or any agency of any of the foregoing remains liable, as borrower or guarantor, to the Association, and such amount may, at the option of the Association, be applied against any such liability as it matures.

(v) In no event shall the government receive under this paragraph (c) an amount exceeding, in the aggregate, the lesser of the two following: (a) the amount paid by the government on account of its subscription, or (b) such proportion of the net assets of the Association, as shown on the books of the Association as of the date on which the government ceased to be a member, as the amount of its subscription shall bear to the aggregate amount of the subscriptions of all members.

(vi) All calculations required hereunder shall be made on such basis as shall be reasonably determined by the Association.

(d) In no event shall any amount due to a government under this Section be paid until six months after the date upon which the government ceases to be a member. If within six months of the date upon which any government ceases to be a member the Association suspends operations under Section 5 of this Article, all rights of such government shall be determined by the provisions of such Section 5 and such government shall be considered a member of the Association for purposes of such Section 5, except that it shall have no voting rights.

Sec. 5. Suspension of Operations and Settlement of Obligations

(a) The Association may permanently suspend its operations by vote of a majority of the Governors exercising a majority of the total voting power. After such suspension of operations the Association shall forthwith cease all activities, except those incident to the orderly realization, conservation and preservation of its assets and settlement of it obligations. Until final settlement of such obligations and distribution of such assets, the Association shall remain in existence and all mutual rights and obligations of the Association and its members under this Agreement shall continue unimpaired, except that no member shall be suspended or shall withdraw and that no distribution shall be made to members except as in this Section provide.

(b) No distribution shall be made to members on account of their subscriptions until all liabilities to creditors shall have been discharged or provided for and until the Board Governors, by a vote of a majority of the Governors exercising a majority of the total voting power, shall have decided to make such distribution.

(c) Subject to the foregoing, and to any special arrangements for the disposition of supplementary resources agreed upon in connection with the provision of such resources to the Association, the Association shall distribute its assets to members *pro rata* in proportion to amounts paid in by them on account of their subscriptions. Any distribution pursuant to the foregoing provision of this paragraph (c) shall be subject, in the case of any members, to prior settlement of all outstanding claims by the Association against such member. Such distribution shall be made at such times, in such currencies, and in cash or other assets as the Association shall deem fair and equitable. Distribution to the several members need not be uniform in respect of the type of assets distributed or of the currencies in which they are expressed.

(d) Any member receiving assets distributed by the Association pursuant to this Section or Section 4 shall enjoy the same rights with respect to such assets as the Association enjoyed prior to their distribution.

ARTICLE VIII

STATUS, IMMUNITIES AND PRIVILEGES

Section 1. Purposes of Article

To enable the Association to fulfill the functions with which it is entrusted, the status, immunities and privileges provided in this Article shall be accorded to the Association in the territories of each member.

Sec. 2. Status of the Association

The Association shall possess full juridical personality and, in particular, the capacity:

(i) to contract;

(ii) to acquire and dispose of immovable and movable property;

(iii) to institute legal proceedings.

Sec. 3. Position of the Association With Regard to Judicial Process

Actions may be brought against the Association only in a court of competent jurisdiction in the territories of a member in which the Association has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Association shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Association.

Sec. 4. Immunity of Assets From Seizure

Property and assets of the Association, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

Sec. 5. Immunity of Archives

The archives of the Association shall be inviolable.

Sec. 6. Freedom of Assets From Restrictions

To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of this Agreement, all property and assets of the Association shall be free from restrictions, regulations, controls and moratoria of any nature.

Sec. 7. Privilege for Communications

The official communications of the Association shall be accorded by each member the same treatment that it accords to the official communications of other members.

Sec. 8. Immunities and Privileges of Officers and Employees

All Governors, Executive Directors, Alternates, officers and employees of the Association—

(i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Association waives this immunity;

(ii) not being local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials, and employees of comparable rank of other members;

(iii) shall be granted the same treatment in respect of traveling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

Sec. 9. Immunities From Taxation

(a) The Association, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Association shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Association to Executive Directors, Alternates, officials or employees of the Association who are not local citizens, local subjects, or other local nationals.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Association (including any dividend or interest thereon) by whomsoever held

(i) which discriminates against such obligation or security solely because it is issued by the Association; or

(ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Association.

(d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Association (including any dividend or interest thereon) by whomsoever held

(i) which discriminates against such obligation or security solely because it is guaranteed by the Association; or

(ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Association.

Sec. 10. Application of Article

Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this Article and shall inform the Association of the detailed action which it has taken.

ARTICLE IX

AMENDMENTS

(a) Any proposal to introduce modifications in this Agreement, whether emanating from a member, a Governor or the Executive Directors, shall be communicated to the Chairman of the Board of Governors who shall bring the proposal before the Board. If the proposed amendment is approved by the Board, the Association shall, by circular letter or telegram, ask all members whether they accept the proposed amendment. When three-fifths of the members, having four-fifths of the total voting power, have accepted the proposed amendments, the Association shall certify the fact by formal communication addressed to all members.

(b) Notwithstanding (a) above, acceptance by all members is required in the case of any amendment modifying

(i) the right to withdraw from the Association provided in Article VII, Section I;

(ii) the right secured by Article III, Section 1(c);

(iii) the limitation on liability provided in Article II, Section 3.

(c) Amendments shall enter into force for all members three months after the date of the formal communication unless a shorter period is specified in the circular letter or telegram.

ARTICLE X

INTERPRETATION AND ARBITRATION

(a) Any question of interpretation of the provisions of this Agreement arising between any member and the Association or between any members of the Association shall be submitted to the Executive Directors for their decision. If the question particularly affects any member of the Association not entitled to appoint an Executive Director of the Bank, it shall be entitled to representation in accordance with Article VI, Section 4(g).

(b) In any case where the Executive Directors have given a decision under (a) above, any member may require that the question be referred to the Board of Governors, whose decision shall be final. Pending the result of the reference to the Board of Governors, the Association may, so far as it deems necessary, act on the basis of the decision of the Executive Directors.

(c) Whenever a disagreement arises between the Association and a country which has ceased to be a member, or between the Association and any member during the permanent suspension of the Association, such disagreement shall be submitted to arbitration by a tribunal of three arbitrators, one appointed by the Association, another by the country involved and an umpire who, unless the parties otherwise agree, shall be appointed by the President of the International Court of Justice or such other authority as may have been prescribed by regulation adopted by the Association. The umpire shall have full power to settle all questions of procedure in any case where the parties are in disagreement with respect thereto.

ARTICLE XI

FINAL PROVISION

Section 1. Entry Into Force

This Agreement shall enter into force when it has been signed on behalf of governments whose subscriptions comprise not less than sixty-five percent of the total subscriptions set forth in Schedule A and when the instruments referred to in Section 2(a) of this Article have been deposited on their behalf, but in no event shall this Agreement enter into force before September 15, 1960.

Sec. 2. Signature

(a) Each government on whose behalf this Agreement is signed shall deposit with the Bank an instrument setting forth that it has accepted this Agreement in accordance with its law and has taken all steps necessary to enable it to carry out all of its obligations under this Agreement.

(b) Each government shall become a member of the Association as from the date of the deposit on its behalf of the instrument referred to in paragraph (a) above except that no government shall become a member before this Agreement enters into force under Section 1 of this Article.

(c) This Agreement shall remain open for signature until the close of business on December 31, 1960, at the principal office of the Bank, on behalf of the governments of the states whose names are set forth in Schedule A, provided that, if this Agreement shall not have entered into force by that date, the Executive Directors of the Bank may extend the period during which this Agreement shall remain open for signature by not more than six months.

(d) After this Agreement shall have entered into force, it shall be open for signature on behalf of the government of any state whose membership shall have been approved pursuant to Article II, Section 1(b).

Sec. 3. Territorial Application

By its signature of this Agreement, each government accepts it both on its own behalf and in respect of all territories for whose international relations such government is responsible except those which are excluded by such government by written notice to the Association.

Sec. 4. Inauguration of the Association

(a) As soon as this Agreement enters into force under Section 1 of this Article the President shall call a meeting of the Executive Directors.

(b) The Association shall begin operations on the date when such meeting is held.

(c) Pending the first meeting of the Board of Governors, the Executive Directors may exercise all the powers of the Board of Governors except those reserved to the Board of Governors under this Agreement.

Sec. 5. Registration

The Bank is authorized to register this Agreement with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations and the Regulations thereunder adopted by the General Assembly.

Done at Washington, in a single copy which shall remain deposited in the archives of the International Bank for Reconstruction and Development, which has indicated by its signature below its agreement to the act as depository of this Agreement, to register this Agreement with the Secretariat of the United Nations and to notify all governments whose names are set forth in Schedule A of the date when this Agreement shall have entered into force under Article XI, Section 1 hereof.

6. Inter-American Investment Corporation: Articles of Agreement

Open for signature at the Inter-American Development Bank until December 1, 1985; or such later date as shall be established [1]

The countries on behalf of which this Agreement is signed agree to create the Inter-American Investment Corporation, which shall be governed by the following provisions:

ARTICLE I

PURPOSE AND FUNCTIONS

Section 1. Purpose. The purpose of the Corporation shall be to promote the economic development of its regional developing member countries by encouraging the establishment, expansion, and modernization of private enterprises, preferably those that are small and medium-scale, in such a way as to supplement the activities of the Inter-American Development Bank (hereinafter referred to as "the Bank").

Enterprises with partial share participation by government or other public entities, whose activities strengthen the private sector of the economy, are eligible for financing by the Corporation.

Sec. 2 Functions. In order to accomplish its purpose, the Corporation shall undertake the following functions in support of the enterprises referred to in Section 1:

(a) Assist, alone or in association with other lenders or investors, in the financing of the establishment, expansion and modernization of enterprises, utilizing such instruments and/or mechanisms as the Corporation deems appropriate in each instance;

(b) Facilitate their access to private and public capital, domestic and foreign, and to technical and managerial know-how;

(c) Stimulate the development of investment opportunities conducive to the flow of private and public capital, domestic and foreign, into investments in the member countries;

(d) Take in each case the proper and necessary measures for their financing, bearing in mind their needs and principles based on prudent administration of the resources of the Corporation; and

(e) Provide technical cooperation for the preparation, financing and execution of projects, including the transfer of appropriate technology.

Sec. 3 Policies. The activities of the Corporation shall be conducted in accordance with the operating, financial and investment policies set forth in detail in Regulations approved by the Board of Executive Directors of the Corporation, which Regulations may be amended by said Board.

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[1] Public Law 98–473 has appropriated $10,000,000 for the U.S. share of corporate stock of the IIC. It also authorized U.S. membership in the IIC by enacting by reference Title II of S. 2416, 98 Stat. 1885 which specifically authorized the President to accept, on behalf of the United States, membership in the IIC.

ARTICLE II

MEMBERS AND CAPITAL

Section 1. Members. (a) The founding members of the Corporation shall be those member countries of the Bank that have signed this Agreement by the date specified in Article XI, Section 1(a) and made the initial payment required in Section 3(b) of this Article;

(b) The other member countries of the Bank may accede to this Agreement on such date and in accordance with such conditions as the Board of Governors of the Corporation may determine by a majority representing at least two-thirds of the votes of the members, which shall include two-thirds of the Governors; and

(c) The word "members" as used in this Agreement shall refer only to member countries of the Bank which are members of the Corporation.

Sec. 2. Resources. (a) The initial authorized capital stock of the Corporation shall be two hundred million dollars of the United States of America (US$200,000,000);

(b) The authorized capital stock shall be divided into twenty thousand (20,000) shares having a par value of ten thousand dollars of United States of America (US$10,000) each. Any shares not initially subscribed by the founding members in accordance with Section 3(a) of this Article shall be available for subsequent subscription in accordance with Section 3(d) hereof;

(c) The Board of Governors may increase the authorized capital stock as follows:

(i) by two-thirds of the votes of the members, when such increase is necessary for the purpose of issuing shares, at the time of initial subscription, to members of the Bank other than founding members, provided that the aggregate of any increases authorized pursuant to this subparagraph does not exceed 2,000 shares; and

(ii) in any other case, by a majority representing at least three-fourths of the votes of the members, which shall include two-thirds of the Governors;

(d) In addition to the authorized capital referred to above, the Board of Governors may, after the date in which the initial authorized capital has been fully paid in, authorize the issue of callable capital and establish the terms and conditions for the subscription thereof, as follows:

(i) such decision shall be approved by a majority representing at least three-fourths of the votes of the members which shall include two-thirds of the Governors; and

(ii) The callable capital shall be divided into shares with a par value of ten thousand dollars of the United States of America (US$10,000) each;

(e) The callable capital shares shall be subject to call only when required to meet the obligations of the Corporation created under Article III, Section 7(a). In the event of such a call, payment may be made at the option of the member in United States dollars, or in the currency required to discharge the obligations of the Corporation for the purpose for which the call is made. Calls on the shares shall be uniform and proportionate for all shares. Obligations of the members to make payments on any such calls or independent of each other and failure of one or more members to make payments on any such calls shall not excuse any other member from its obligation to make payment. Successive calls may be made if necessary to meet the obligations of the Corporation.

(f) The other resources of the Corporation shall consist of:

(i) amounts accruing by way of dividends, commissions, interest, and other funds derived from the investments of the Corporation;

(ii) amounts received upon the sale of investments or the repayment of loans;

(iii) amounts raised by the Corporation by means of borrowings; and

(iv) other contributions and funds entrusted to its administration.

Sec. 3. Subscriptions. (a) Each founding member shall subscribe the number of shares specified in Annex A;

(b) The payment for capital stock, set forth Annex A, by each founding member shall be made in four annual, equal and consecutive installments each of twenty-five percent of such amount. The first installment shall be paid by each member in full within three months after the date on which the Corporation begins operation pursuant to article XI, Section 3 below, or the date on where such founding member accedes to this agreement, or by such date or dates thereafter as the Board of Executive Directors of the Corporation specifies. The remaining three installments shall be paid on such dates as are determined by the Board of Executive Directors of the Corporation but not earlier than December 31, 1985, December 31, 1986, and December 31, 1987, respectively. The payment of each of the last three installments of capital subscribed by each of the member countries shall be subject to fulfillment of such legal requirements as may be appropriate in the respective countries. Payment shall be made in United States dollars. The Corporation shall specify the place or places of payment.

(c) Shares initially subscribed by the founding members shall be issued at par; and

(d) The conditions governing the subscriptions of shares to be issued after the initial share subscription of the founding members which shall not have been subscribed under Article II, Section 2(b), as well as the dates of payment thereof, shall be determined by the Board of Executive Directors of the Corporation.

Sec. 4. Restriction on transfers and pledge of shares. Shares of the Corporation may not be pledged, encumbered or transferred in any manner whatever except to the Corporation, unless the Board of Governors of the Corporation approves a transfer between members by a majority of the Governors representing four-fifths of the votes of the members.

Sec. 5. Preferential subscription right. In case of an increase in capital, in accordance with Section 2(c) and (d) of this Article, each member shall be entitled, subject to such terms as may be estab-

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lished by the Corporation, to a percentage of the increased shares equivalent to the proportion which its shares heretofore subscribed bears to the total capital of the Corporation. However, no member shall be obligated to subscribe to any part of the increased capital.

Sec. 6. Limitation on liability. The liability of members on the shares subscribed by them shall be limited to the unpaid portion of its price at issuance. No member shall be liable, by reason of its membership, for obligations of the Corporation.

ARTICLE III

OPERATIONS

Section 1. Operating procedures. In order to accomplish its purposes, the Corporation is authorized to:

(a) Identify and promote projects which meet criteria of economic feasibility and efficiency, with preference given to projects that have one or more of the following characteristics:

(i) they promote the development and use of material and human resources in the developing countires which are members of the Corporation;

(ii) they provide incentives for the creation of jobs;

(iii) they encourage savings and the use of capital in productive investments;

(iv) they contribute to the generation and/or savings of foreign exchange;

(v) they foster management capability and technology transfer; and

(vi) they promote broader public ownership of enterprises through the participation of as many investors as possible in the capital stock of such enterprises.

(b) Make direct investments, through the granting of loans, and preferably through the subscription and purchase of shares or convertible debt instruments, in enterprises in which a majority of the voting power is held by investors with Latin American citizenship, and make indirect investments in such enterprises through other financial institutions;

(c) Promote the participation of other sources of financing and/or expertise through appropriate means, including the organization of loan syndicates, the underwriting of securities and participations, joint ventures, and other forms of association such as licensing arrangements, marketing or management contracts;

(d) Conduct cofinancing operations and assist domestic financial institutions, international institutions and bilateral investment institutions;

(e) Provide technical cooperation, financial and general management assistance, and act as financial agent of enterprises;

(f) Help to establish, expand, improve and finance development finance companies in the private sector and other institutions to assist in the development of said sector;

(g) Promote the underwriting of shares and securities issues, and extend such underwriting provided the appropriate conditions are met, either individually or jointly with other financial entities;

(h) Administer funds of other private, public or semi-public institutions; for this purpose, the Corporation may sign management and trustee contracts;

(i) Conduct currency transactions essential to the activities of the Corporation; and

(j) Issue bonds, certificates of indebtedness and participation certificates, and enter into credit agreements.

Sec. 2. Other forms of investments. The Corporation may make investments of its funds in such form or forms as it may deem appropriate in the circumstances, in accordance with Section 7(b) below.

Sec. 3. Operating principles. The operations of the Corporation shall be governed by the following principles:

(a) It shall not establish as a condition that the proceeds of its financing be used to procure goods and services originating in a predetermined country;

(b) It shall not assume responsibility for managing any enterprise in which it has invested and shall not exercise its voting rights for such purpose or for any other purpose which, in its opinion, is properly within the scope of managerial concept;

(c) It shall provide financing on terms and conditions which it considers appropriate taking into account the requirements of the enterprises, the risks assumed by the Corporation and the terms and conditions normally obtained by private investors for similar financings;

(d) It shall seek to revolve its funds by selling its investments, provided such sale can be made in an appropriate form and under satisfactory conditions to the extent possible in accordance with Section 1(a)(vi) above;

(e) It shall seek to maintain a reasonable diversification in its investments;

(f) It shall apply financial, technical, economic, legal and institutional feasibility criteria to justify investments and the adequacy of the guarantees offered; and

(g) It shall not undertake any financing for which, in its opinion, sufficient capital could be obtained on adequate terms.

Sec. 4. Limitations. (a) With the exception of the investment of liquid assets of the Corporation referred to in Section 7(b) of this Article, investments of the Corporation shall be made only in enterprises located in developing regional member countries; such investments shall be made following sound rules of financial management;

(b) The Corporation shall not provide financing or undertake other investments in an enterprise in the territory of a member country if its government objects to such financing or investment.

Sec. 5. Protection of interests. Nothing in this Agreement shall prevent the Corporation from taking such action and exercising such rights as it may deem necessary for the protection of its interests in the event of default on any of its investments, actual or threatened insolvency of enterprises in which such investments have been made, or other situations which, in the opinion of the Corporation, threaten to jeopardize such investments.

Sec. 6. Applicability of certain foreign exchange restrictions. Funds received by or payable to the Corporation in respect of an investment of the Corporation made in any member's territories shall not be free, solely by reason of any provision of this Agreement from generally applicable foreign exchange restrictions, regulations and controls in the territories of that member.

Sec. 7. Other powers. The Corporation shall also have the power to:

(a) Borrow funds and for that purpose furnish such collateral or other security as the Corporation shall determine, provided that the total amount outstanding or borrowing incurred or guarantees given by the Corporation, regardless of source, shall not exceed an amount equal to the sum of its subscribed capital, plus its earned surplus and reserves;

(b) Invest funds not immediately needed in its financial operations, as well as funds held by it for other purposes, in such marketable obligations and securities as the Corporation may determine;

(c) Guarantee securities in which it has invested in order to facilitate their sale;

(d) Buy and/or sell securities it has issued or guaranteed or in which it has invested.

(e) Handle, on such terms as the Corporation may determine, any specific matters incidental to its business as may be entrusted to the Corporation by its shareholders or third parties, and discharge the duties of trustees in respect of trusts; and

(f) Exercise all other powers inherent or which may be necessary or useful for the accomplishment of its purposes, including the signing of contracts and conducting of necessary legal actions.

Sec. 8. Political activity prohibited. The Corporation and its officers shall not interfere in the political affairs of any member; nor shall they be influenced in their decisions by the political character of the member or members concerned. Only economic considerations shall be relevant to decisions of the Corporation, and these considerations shall be weighed impartially in order to achieve the purposes stated in this Agreement.

ARTICLE IV

ORGANIZATION AND MANAGEMENT

Section 1. Structure of the Corporation. The Corporation shall have a Board of Governors, a Board of Executive Directors, a Chairman of the Board of Executive Directors, a General Manager and such other officers and staff as may be determined by the Board of Executive Directors of the Corporation.

Sec. 2. Board of Governors. (a) All the powers of the Corporation shall be vested in the Board of Governors;

(b) Each Governor and Alternate Governor of the Inter-American Development Bank appointed by a member country of the Bank which is also a member of the Corporation shall unless the respective country indicates to the contrary, be a Governor or Alternate Governor ex-officio, respectively, of the Corporation. No Alternate

Governor may vote except in the absence of his principal. The Board of Governors shall select one of the Governors as Chairman of the Board of Governors. A Governor and Alternate Governor shall cease to hold office if the member by which they were appointed ceases to be a member of the Corporation;

(c) The Board of Governors may delegate all its powers to the Board of Executive Directors, except the power to:

(i) admit new members and determine the conditions of their admission;

(ii) increase or decrease the capital stock;

(iii) suspend a member;

(iv) consider and decide appeals on interpretations of this Agreement made by the Board of Directors;

(v) approve, after receipt of the auditors report, the general balance sheets and the statements of profit and loss of the institution;

(vi) rule on reserves and the distribution of net income, and declare dividends;

(vii) engage the services of external auditors to examine the general balance sheets and the statements of profit and loss of the institution;

(viii) amend this Agreement; and

(ix) decide to suspend permanently the operations of the Corporation and to distribute its assets.

(d) The Board of Governors shall hold an annual meeting, which shall be held in conjunction with the annual meeting of the Board of Governors of the Inter-American Development Bank. It may meet on other occasions by call of the Board of Executive Directors;

(e) A quorum for any meeting of the Board of Governors shall be a majority of the Governors representing at least two-thirds of the votes of the members. The Board of Governors may establish a procedure whereby the Board of Executive Directors, if it deems appropriate, may submit a specific question to a vote of the Government without calling a meeting of the Board of Governors;

(f) The Board of Governors and the Board of Executive Directors, to the extent the latter is authorized, may issue such rules and regulations as may be necessary or appropriate to conduct the business of the Corporation; and

(g) Governors and Alternate Governors shall serve as such without compensation from the Corporation.

Sec. 3. **Voting.** (a) Each member shall have one vote for each fully paid share held by it and for each callable share subscribed; and

(b) Except as otherwise provided, all matters before the Board of Governors of the Board of Executive Directors shall be decided by a majority of the votes of the members.

Sec. 4. **Board of Executive Directors.** (a) The Board of Executive Directors shall be responsible for the conduct of the operations of the Corporation and for this purpose shall exercise all the powers given it by this Agreement or delegated to it by the Board of Governors;

(b) The Executive Directors and Alternates shall be elected or appointed among the Executive Directors and Alternates of the Bank except when:

(i) a member country or a group of member countries of the Corporation is represented in the Board of Executive Directors of the Bank by an Executive Director and an Alternate which are citizens of countries which are not members of the Corporation; and

(ii) given the different structure of participation and composition, the member countries referred to in (c)(iii) below, as per the rotation arrangement agreed upon among said member countries, designate their own representatives for the positions corresponding to them in the Board of Executive Directors of the Corporation, whenever they could not be adequately represented by Directors or Alternates of the Bank.

(c) The Board of Executive Directors of the Corporation shall be composed as follows:

(i) one Executive Director shall be appointed by the member country having the largest number of shares in the Corporation;

(ii) nine Executive Directors shall be elected by the Governors for the regional developing member countries; and

(iii) two Executive Directors shall be elected by the Governors for the remaining member countries.

The procedure for the election of Executive Directors shall be set forth in the Regulations to be adopted by the Board of Governors by a majority of at least two-thirds of the votes of the members.

One additional Executive Director may be elected by the Governors for the member countries mentioned in (iii) above under such conditions and within the term to be established under said Regulations and, in the event that such conditions were not met, by the Governors for the regional developing member countries, in conformity with the provisions of said Regulations.

Each Executive Director may designate an Alternate Director who shall have full power to act for him when he is not present.

(d) No Executive Director may simultaneously serve as a governor of the Corporation;

(e) Elected Executive Directors shall be elected for terms of three years and may be reelected for successive terms;

(f) Each Director shall be entitled to cast the number of votes which the member or members of the Corporation whose votes counted towards his nomination or election are entitled to cast;

(g) All the votes which a Director is entitled to cast shall be cast as a unit;

(h) In the event of the temporary absence of an Executive Director and his Alternate, the Executive Director or, may appoint a person to represent him;

(i) A Director shall cease to hold office if all the members whose votes counted toward his nomination or election cease to be members of the Corporation;

(j) The Board of Executive Directors shall operate at the headquarters of the Corporation, or exceptionally at such other location as shall be designated by said Board, and shall meet as frequently as the business of the institution requires;

(k) A quorum for any meeting of the Board of Executive Directors shall be a majority of the Directors representing not less than two-thirds of the votes of the members; and

(l) Every member of the Corporation may send a representative to attend every meeting of the Board of Executive Directors, when a matter especially affecting that member is under consideration. Such right of representation shall be regulated by the Board of Governors.

Sec. 5. Basic organization. The Board of Executive Director shall determine the basic organization of the Corporation, including the number and general responsibilities of the principal administretive and professional positions, and shall adopt the budget of the institution.

Sec. 6. Executive Committee of the Board of Executive Directors. (a) The Executive Committee of the Board of Executive Directors shall be composed as follows:

(i) one person who is Director or alternate appointed by the member country having the largest number of shares in the Corporation;

(ii) two persons from among the Directors representing the regional developing member countries of the Corporation; and

(iii) one person from the Directors representing the other member countries.

The election of members of the Executive Committee and their alternatives in categories (ii) and (iii) above shall be made by the members of each respective group pursuant to procedures to be worked out within each group;

(b) The Chairman of the Board of Executive Directors shall preside over meetings of said Committee. In his absence, a member of the Committee chosen by a process of rotation shall preside over meeting;

(c) The Committee shall consider all loans and investments by the Corporation in enterprises in the member countries;

(d) All loans and investments shall require the vote of a majority of the Committee for approval. A quorum for any meeting of the Committee shall be three. An absence or abstention shall be considered a negative vote;

(e) A report with respect to each operation approved by the Committee shall be submitted to the Board of Executive Directors. At the request of any Director, such operation shall be presented to the Board for a vote. In the absence of such request within the period established by the Board, an operation shall deemed approved by the Board;

(f) In the event that there is a tie vote regarding a proposed operation, such proposal shall be returned to Management for further review and analysis; if upon reconsideration in the Committee, a tie vote shall again occur, the Chairman of the Board of Executive Directors shall have the right to cast the deciding vote in the Committee; and

(g) In the event that the Committee shall reject an operation, the Board of Executive Directors, upon the request of any Director, may require that Management's report on such operation, together with a summary of the Committee's review, be submitted to the Board for discussion and possible recommendation with regard to the technical and policy issues related to the operation and to comparable operations in the future.

Sec. 7. President, General Manager and officers. (a) The President of the Bank shall be ex-officio Chairman of the Board of Executive Directors of the Corporation. He shall preside over meetings of the Board of Executive Directors but without the right to vote except in the event of a tie. He may participate in meetings of the Board of Governors, but shall not vote at such meetings;

(b) The General Manager of the corporation shall be appointed by the Board of Executive Directors, by a four-fifths majority of the total voting power, on the recommendation of the Chairman of the Board of Executive Directors, for such term as he shall indicate. The General Manager shall be chief of the officers and staff of the Corporation. Under the direction of the Board of Executive Directors and the general supervision of the Chairman of the Board of Executive Directors, he will conduct the ordinary business of the Corporation and in consultation with the Board of Directors and the Chairman of the Board of Executive Directors, shall be responsible for the organization, appointment and dismissal of the officers and staff. The General Manager may participate in meetings of the Board of Executive Directors but shall not vote at such meetings. The General Manager shall cease to hold office by resignation or by decision of the Board of Executive Directors, by a three-fifths majority of the total voting power, in which the Chairman of the Board of Executive Directors concurs;

(c) Whenever activities must be carried out that require specialized knowledge or cannot be handled by the regular staff of the Corporation, the Corporation shall obtain technical assistance from the staff of the Bank, or if it is unavailable, the services of experts and consultants may be engaged on a temporary basis;

(d) The officers and staff of the Corporation owe their duty entirely to the Corporation in the discharge of their office and shall recognize no other authority. Each member country shall respect the international character of such obligation; and

(e) The Corporation shall have due regard for the need to assure the highest standards of efficiency, competence and integrity as the paramount consideration in appointing the staff of the Corporation and in establishing their conditions of service. Due regard shall also be paid to the importance of recruiting the staff on as wide a geographic basis as possible, taking into account the regional character of the institution.

Sec. 8. Relations with the Bank. (a) The Corporation shall be an entity separate and distinct from the Bank. The funds of the Corporation shall be kept separate and apart from those of the Bank. The provisions of this Section shall not prevent the Corporation from making arrangements with the Bank regarding facilities, personnel, services and others concerning reimbursement of administrative expenses paid by either organization on behalf of the other;

(b) The Corporation shall seek insofar as possible to utilize the facilities, installations and personnel of the Bank; and

(c) Nothing in this Agreement shall make the Corporation liable for the acts or obligations of the Bank, or the Bank liable for the acts or obligations of the Corporation.

Sec. 9. Publication of annual reports and circulation of reports.

(a) The Corporation shall publish an annual report containing an audited statement of its accounts. It shall also send the members a

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quarterly summary of its financial position and a profit and loss statement indicating the results of its operations; and

(b) The Corporation may also publish any such other reports as it deems appropriate in order to carry out its purpose and functions.

Sec. 10. Dividends. (a) The Board of Governors may determine what part of the Corporation's net income and surplus, after making provision for reserves, shall be distributed as dividends;

(b) Dividends shall be distributed pro rata in proportion to paid-in capital stock held by each member; and

(c) Dividends shall be paid in such manner and in such currency or currencies as the Corporation may determine.

ARTICLE V

WITHDRAWAL AND SUSPENSION OF MEMBERS

Section 1. Right of withdrawal. (a) Any member may withdraw from the Corporation by notifying the Corporation's principal office in writing of its intention to do so. Such withdrawal shall become effective on the date on which such notice was delivered to the Corporation. At any time before the withdrawal becomes effective, the member may, upon written notice to the Corporation, renounce its intention to withdraw; and

(b) Even after withdrawing, a member shall remain liable for all obligations to the Corporation to which it was subject at the date of delivery of the withdrawal notice, including those specified in Section 3 of this Article. However, if the withdrawal becomes effective, a member shall not incur any liability for obligations resulting from operations of the Corporation effected after the date on which the withdrawal notice was received by the latter.

Sec. 2. Suspension of membership. (a) A member that fails to fulfill any of its obligations to the Corporation under this Agreement may be suspended by decision of the Board of Governors by a majorty representing at least three-fourths of the votes of the members, which shall include two-thirds of the Governors;

(b) A member so suspended shall automatically cease to be a member of the Corporation within one year from the date of suspension unless the Board of Governors decides, by the same majority specified in paragraph (a) preceding, to lift the suspension; and

(c) While under suspension, a member may exercise none of the rights conferred upon it by this Agreement, except the right of withdrawal, but it shall remain subject to fulfillment of all its obligations.

Sec. 3. Terms of withdrawal from membership. (a) From the time its membership ceases, a member shall no longer share in the profits or losses of the institution and shall incur no liability with respect to loans and guarantees entered into by the Corporation thereafter. The Corporation shall arrange for the repurchases of such member's capital stock as part of the settlement of accounts with it in accordance with the provisions of this Section;

(b) The Corporation and a member may agree on the withdrawal from membership and the repurchase of shares of said member on terms appropriate under the circumstances. If such agreement is not reached within three months after the date on which such member expresses its desire to withdraw from membership, or within a term agreed upon between both parties, the repurchase price of the member's shares shall be equal to the book value thereof on the date when the member ceases to belong to the institution, such book value to be determined by the Corporation's audited financial statements.

(c) Payment for shares shall be made, upon surrender of the corresponding share certificates, in such installments and at such times and in such available currencies as the Corporation shall determine, taking into account its financial position; and

(d) No amount due a former member for its shares under this Section may be paid until one month after the date upon which such member ceases to belong to the institution. If, within that period the Corporation suspends operations, the rights of such member shall be determined by the provisions of Article VI and the member shall be considered still a member of the Corporation for purposes of said Article, except that it shall have no voting rights.

ARTICLE VI

SUSPENSION AND TERMINATION OF OPERATIONS

Section 1. Suspension of operations. In an emergency the Board of Executive Directors may suspend operations in respect of new investments, loans and guarantees until such time as the Board of Governors has the opportunity to consider the situation and take pertinent measures.

Sec. 2. Termination of operations. (a) The Corporation may terminate its operations by decision of the Board of Governors by a majority representing at least three-fourths of the votes of the members, which shall include two-thirds of the Governors. Upon termination of operations, the Corporation shall forthwith cease all activities except those incident to the conservation, preservation and realization of its assets and settlement of its obligations; and

(b) Until final settlement of such obligations and distribution of such assets, the Corporation shall remain in existence and all mutual rights and obligations of the Corporation and its members under this Agreement shall continue unimpaired, except that no member shall be suspended or withdraw and that no distribution shall be made to members except as provided in this Article.

Sec. 3. Liability of members and payment of debts. (a) The liability of members of arising from capital subscriptions shall remain in force until the Corporation's obligations, including contingent obligations, are settled;

(b) All creditors holding direct claims shall be paid out of the assets of the Corporation to which such obligations are chargeable and then out of payments to the Corporation on unpaid capital subscriptions to which such claims are chargeable. Before making any payments to creditors holding direct claims, the Board of Executive Directors shall make such arrangements as are necessary in its judgment to ensure a pro rata distribution among holders of direct and contingent claims.

Sec. 4. Distribution of assets. (a) No distribution of assets shall be made to members on account of the shares held by them in the Corporation until all liabilities to creditors chargeable to such shares have been discharged or provided for. Moreover, such distribution must be approved by a decision of the Board of Governors by a majority representing at least three-fourths of the votes of the members, which shall include two-thirds of the Governors;

(b) Any distribution of assets to the members shall be in proportion to the number of shares held and shall be effected at such times and under such conditions as the Corporation deems fair and equitable. The proportions of assets distributed need not be uniform as to type of assets. No member shall be entitled to receive its proportion in such distribution of assets until it has settled all its obligations to the Corporation; and

(c) Any member receiving assets distributed pursuant to this Article shall enjoy the same rights with respect to such assets as the Corporation enjoyed prior to their distribution.

ARTICLE VII

JURIDICAL PERSONALITY, IMMUNITIES, EXEMPTIONS AND PRIVILEGES

Section 1. Scope. To enable the Corporation to fulfill its purpose and the functions with which it is entrusted, the status, immunities, exemptions and privileges set forth in this Article shall be accorded to the Corporation in the territories of each member country.

Sec. 2. Juridical personality. The Corporation shall possess juridical personality and, in particular, full capacity:

(a) to contract;

(b) to acquire and dispose of immovable and movable property; and

(c) to institute legal and administrative proceedings.

Sec. 3 Judicial proceedings. (a) Actions may be brought against the Corporation only in a court of competent jurisdiction in the territories of a member country in which the Corporation has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No action shall be brought against the Corporation by member or persons acting for or deriving claims from member countries. However, such countries or persons shall have recourse to such special procedures to settle controversies between the Corporation and its member countries as may be prescribed in this Agreement, in the by-laws and regulations of the Corporation or in contracts entered into by the Corporation; and

(b) Property and assets of the Corporation shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Corporation.

Sec. 4. Immunity of assets. Property and assets of the Corporation, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

Sec. 5. Inviolability of archives. The archives of the Corporation shall be inviolable.

Sec. 6. Freedom of assets from restrictions. To the extent necessary to enable the Corporation to carry out its purpose and functions and to conduct its operations in accordance with this Agreement, all property and other assets of the Corporation shall be free from restrictions, regulations, controls and moratoria of any nature, except as may otherwise be provided in this Agreement.

Sec. 7. Privilege for communications. The official communications of the Corporation shall be accorded by each member country the same treatment that it accords to the official communications of other members.

Sec. 8. Personal immunities and privileges. All Governors, Executive Directors, Alternates, officers, and employees of the Corporation shall have the following privileges and immunities:

(a) Immunity from legal process with respect to acts performed by them in their official capacity, except when the Corporation waives this immunity;

(b) When not local nationals, the same immunities from immigration restrictions, alien registration requirements and military service obligations and the same facilities as regards exchange provisions as are accorded by a member country to the representatives, officials, and employees of comparable rank of other member countries; and

(c) The same privileges in respect to traveling facilities as are accorded by member countries to representatives, officials, and employees of comparable rank of other member countries.

Sec. 9. Immunities from taxation. (a) The Corporation, its property, other assets, income, and the operations and transactions it carries out pursuant to this Agreement, shall be immune from all taxation and from all customs duties. The Corporation shall also be immune from any obligation relating to the payment, withholding or collection of any tax or duty;

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Corporation to officials or employees of the Corporation who are not local citizens or other local nationals;

(c) No tax of any kind shall be levied on any obligation or security issued by the Corporation, including any dividend or interest thereon, by whomsoever held:

(i) which discriminates against such obligation or security solely because it is issued by the Corporation; or

(ii) if the role jurisdiction basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Corporation.

(d) No tax of any kind shall be levied on any obligation or security guaranteed by the Corporation including any dividend or interest thereon, by whomsoever held:

(i) which discriminates against such obligation or security solely because it is guaranteed by the Corporation; or

(ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Corporation.

Sec. 10. Implementation. Each member country, in accordance with its jurisdictional system, shall take such action as is necessary to make effective in its own territories the principles set forth in this Article, and shall inform the Corporation of the action which it has taken on the matter.

Sec. 11. Waiver. The Corporation in its discretion may waive any of the privileges or immunities conferred under this Article to such extent and upon such conditions as it may determine.

ARTICLE VIII

AMENDMENTS

Section 1. Amendments. (a) This Agreement may be amended only by decision of the Board of Governors by a majority representing at least four-fifths of the votes of the members, which shall include two-thirds of the Governors;

(b) Notwithstanding the provisions of (a) above, the unanimous agreement of the Board of Governors shall be required for the approval of any amendment modifying:

(i) the right to withdraw from the Corporation as provided in Article V, Section 1;

(ii) the right to purchase shares of the Corporation as provided in Article II, Section 5; and

(iii) the limitation on liability as provided in Article II, Section 6.

(c) Any proposals to amend this Agreement, whether emanating from a member country or the Board of Executive Directors, shall be communicated to the Chairman of the Board of Governors, who shall bring the proposal before the Board of Governors. When an amendment has been adopted, the Corporation shall so certify in an official communication addressed to all members. Amendments shall enter into force for all members three months after the date of the official communication unless the Board of Governors shall specify a different period.

ARTICLE IX

INTERPRETATION AND ARBITRATION

Section 1. Interpretation. (a) Any question of the provisions of this Agreement arising between any member and the Corporation or between members shall be submitted to the Board of Executive Director for decision. Members especially affected by the question under consideration shall be entitled to direct representation before the Board of Executive Directors as provided in Article IV, Section 4, paragraph (1); and

(b) In any case where the Board of Executive Directors has given a decision under the above paragraph, any member may require that the question be submitted to the Board of Governors, whose decision shall be final. Pending the decision of the Board of Governors, the Corporation may, insofar as it deems it necessary, act on the basis of the decision of the Board of Executive Directors.

Sec. 2. Arbitration. If a disagreement should arise between the Corporation and a member which has ceased to be such, or between the Corporation and any member after adoption of a decision to terminate the operations of the institution, such disagreement shall be submitted to arbitration by a tribunal of three arbitrators. One of the arbitrators shall be appointed by the Corporation, another by the member concerned, and the third, unless the parties otherwise agree, by the President of the International Court of Justice. If all efforts to reach a unanimous agreement fail, decisions shall be reached by a majority vote of the three arbitrators. The third arbitrator shall be empowered to settle all questions of procedure in any case where the parties are in disagreement with respect thereto.

ARTICLE X

GENERAL PROVISIONS

Section 1. Headquarters of the Corporation. The headquarters of the Corporation shall be located in the same locality as the headquarters of the Bank. The Board of Executive Directors of the Corporation may establish other offices in the territories of any of its members countries by a majority representing at least two-thirds of the votes of the members.

Sec. 2. Relations with other organizations. The Corporation may enter into agreements with other organizations for purposes consistent with this Agreement.

Sec. 3. Channels of communications. Each member shall designate an official entity for purposes of communication with the Corporation on matters connected with this Agreement.

ARTICLE XI

FINAL PROVISIONS

Section 1. Signature and acceptance. (a) This agreement shall be deposited with the Bank where it shall remain open for signature by the representatives of the countries listed in Annex A unit December 31, 1984 or such later date as shall be established by the Board of Executive Directors of the Corporation. Each signatory shall deposit with the Bank an instrument setting forth that it has accepted or ratified this Agreement in accordance with its own laws and has taken the steps necessary to enable it to fulfill all of its obligations under this Agreement;

(b) The Bank shall send certified copies of this Agreement to its members and duly notify them of each signature and deposit of the instrument of acceptance or ratification made pursuant to the foregoing paragraph, as well as the date thereof; and

(c) On or after the date on which the Corporation commences operations, the Bank may receive the signature and the instrument of acceptance or ratification of this Agreement from any country, whose membership has been approved in accordance with Article II, Section 1(b).

Sec. 2. Entry into force. (a) This Agreement shall enter into force when it has been signed and instruments of acceptance or ratification have been deposited, in accordance with Section 1 of this Article, by representatives of countries whose subscriptions set forth in Annex A, which shall include:

(i) the subscription of the member country with the largest number of shares; and

(ii) subscriptions of regional developing member countries with a total of shares greater than all other subscriptions.

(b) Countries whose instruments of acceptance or ratification were deposited prior to the date on which the agreement entered into force, shall become members on that date. Other countries shall become members on the dates on which their instruments of acceptance or ratification are deposited.

Sec. 3. Commencement of operations. As soon as this Agreement enters into force under Section 2 of this Article, the President of the Bank shall call a meeting of the Board of Governors. The Corporation shall begin operations on the date when such meeting is held.

DONE at the city of Washington, District of Columbia, United States of America, in a single original, dated , 19 , whose English, French, Portuguese, and Spanish texts are equally authentic and which shall remain deposited in the archives of the Inter-American Development Bank, which has indicated by its signature below its agreement to act as depository of this Agreement and to notify all those governments of the countries whose names are set forth in Annex A of the date when this Agreement shall enter into force, in accordance with Section 2 of Article XI.

7. Article of Agreement of the Asian Development Bank (with declaration)

CONTENTS

Page
Chapter I—Purpose, Functions and Membership 552
Article 1. Purpose 552
Article 2. Functions 553
Article 3. Membership 553
Chapter II—Capital 554
Article 4. Authorized capital 554
Article 5. Subscription of shares 554
Article 6. Payment of subscriptions 555
Article 7. Ordinary capital resources 557
Chapter III—Operations 557
Article 8. Use of resources 557
Article 9. Ordinary and special operations 557
Article 10. Separation of operations 557
Article 11. Recipients and methods of operation 558
Article 12. Limitations on ordinary operations 558
Article 13. Provision of currencies for direct loans 559
Article 14. Operating principles 559
Article 15. Terms and conditions for direct loans and guarantees 560
Article 16. Commission and fees 561
Article 17. Special reserve 561
Article 18. Methods of meeting liabilities of the bank 562
Article 19. Special funds 562
Article 20. Special funds resources 563
Chapter IV—Borrowing and Other Miscellaneous Powers 563
Article 21. General powers 563
Article 22. Notice to be placed on securities 564
Chapter V—Currencies 564
Article 23. Determination of convertibility 564
Article 24. Use of currencies 565
Article 25. Maintenance of value of the currency holdings of the bank 566
Chapter VI—Organization and Management 566
Article 26. Structure 566
Article 27. Board of Governors: Composition 567
Article 28. Board of Governors: Powers 567
Article 29. Board of Governors: Procedure 567
Article 30. Board of Directors: Composition 568
Article 31. Board of Directors: Powers 569
Article 32. Board of Directors: Procedure 569
Article 33. Voting 569
Article 34. The President 570
Article 35. Vice-President(s) 570
Article 36. Prohibition of political activity: The International character of the bank 571
Article 37. Office of the bank 571
Article 38. Channel of communications, depositories 571
Article 39. Working language, reports 571
Article 40. Allocation of net income 571
Chapter VII—Withdrawal and Suspension of Members, Temporary Suspension and Termination of Operations of the Bank 572
Article 41. Withdrawal 572
Article 42. Suspension of membership 572
Article 43. Supplement of accounts 572
Article 44. Temporary suspension of operations 573

Page
Article 45. Termination of operations 574
Article 46. Liability of members and payment of claims 574
Article 47. Distribution of assets 574
Chapter VIII—Status, Immunities, Exemptions, and Privileges 574
Article 48. Purpose of chapter 574
Article 49. Legal status 575
Article 50. Immunity from judicial proceedings 575
Article 51. Immunity of assets 575
Article 52. Immunity of archives 575
Article 53. Freedom of assets from restrictions 575
Article 54. Privilege for communications 575
Article 55. Immunities and privileges of bank personnel 576
Article 56. Exemption from taxation 577
Article 57. Implementation 577
Article 58. Waiver of immunities, exemptions and privileges 577
Chapter IX—Amendments, Interpretations, Arbitration 577
Article 59. Amendments 577
Article 60. Interpretation or application 578
Article 61. Arbitration 578
Article 62. Approval deemed given 578
Chapter X—Final Provisions 578
Article 63. Signature and deposit 578
Article 64. Ratification or acceptance 579
Article 65. Entry into force 579
Article 66. Commencement of operations 579
Annex A 579
Annex B—Election of Directors 581
Section A. Election of directors of governors representing regional members 581
Section B. Election of directors of governors representing non-regional members 582

7. Articles of Agreement of the Asian Development Bank[1] (with declaration)

Agreement done at Manila December 4, 1965; Open for signature at the United Nations Economic Commission for Asia and the Far East, at Bangkok, until January 31, 1966; Acceptance by the United States of America, with a declaration, deposited with the Secretary-General of the United Nations August 16, 1966; Entered into force August 22, 1966[1]

THE CONTRACTING PARTIES

CONSIDERING the importance of closer economic co-operation as a means for achieving the most efficient utilization of resources and for accelerating the economic development of Asia and the Far East;

REALIZING the significance of making additional development financing available for the region by mobilizing such funds and other resources both from within and outside the region, and by seeking to create and foster conditions conducive to increased domestic savings and greater flow of development funds into the region;

RECOGNIZING the desirability of promoting the harmonious growth of the economics of the region and the expansion of external trade of member countries;

CONVINCED that the establishment of a financial institution that is Asian in its basic character would serve these ends;

HAVE AGREED to establish hereby the Asian Development Bank (hereinafter called the "Bank") which shall operate in accordance with the following

ARTICLES OF AGREEMENT

CHAPTER I—PURPOSE, FUNCTIONS, AND MEMBERSHIP

ARTICLE 1. PURPOSE

The purpose of the Bank shall be to foster economic growth and co-operation in the region of Asia and the Far East (hereinafter referred to as the "region") and to contribute to the acceleration of the process of economic development of the developing member countries in the region, collectively and individually. Wherever used in this Agreement, the terms "region of Asia and the Far East" and "region" shall comprise the territories of Asia and the Far East included in the Terms of References of the United Nations Economic Commission for Asia and the Far East.

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[1] 17 UST 1418; TIAS 6103; 571 UNTS 123. For a list of states which are parties, see Department of State publication, *Treaties in Force.*

ARTICLE 2. FUNCTIONS

To fulfill its purpose the Bank shall have the following functions:

(i) to promote investment in the region of public and private capital for development purposes;

(ii) to utilize the resources at its disposal for financing development of the developing member countries in the region, giving priority to those regional, sub-regional as well as national projects and programmes which will contribute most effectively to the harmonious economic growth of the region as a whole, and having special regard to the needs of the smaller or less-developed member countries in the region;

(iii) to meet requests from members in the region to assist them in the coordination of their development policies and plans with a view to achieving better utilization of their resources, making their economies more complementary, and promoting the orderly expansion of their foreign trade, in particular, intra-regional trade;

(iv) to provide technical assistance for the preparation, financing and execution of development projects and programmes, including the formulation of specific project proposals;

(v) to co-operate, in such manner as the Bank may deem appropriate, within the terms of this Agreement, with the United Nations, its organs and subsidiary bodies including, in particular, the Economic Commission for Asia and the Far East, and with public international organizations and other international institutions, as well as national entities whether public or private, which are concerned with the investment of development funds in the region, and to interest such institutions and entities in new opportunities for investment and assistance; and

(vi) to undertake such other activities and provide such other services as may advance its purpose.

ARTICLE 3. MEMBERSHIP

1. Membership in the Bank shall be open to: (i) members and associate members of the United Nations Economic Commission for Asia and the Far East; and (ii) other regional countries and non-regional developed countries which are members of the United Nations or of any of its specialized agencies.

2. Countries eligible for membership under paragraph 1 of this Article which do not become members in accordance with Article 64 of this Agreement may be admitted, under such terms and conditions as the Bank may determine, to membership in the Bank upon the affirmative vote of two-thirds of the total number of Governors, representing not less than three-fourths of the total voting power of the members.

3. In the case of associate members of the United Nations Economic Commission for Asia and the Far East which are not responsible for the conduct of their international relations, application for membership in the Bank shall be presented by the member of the bank responsible for the international relations of the applicant and accompanied by an undertaking by such member that, until

the applicant itself assumes such responsibility, the member shall be responsible for all obligations that may be incurred by the applicant by reason of admission to membership in the Bank and enjoyment of the benefits of such membership. "Country" as used in this Agreement shall include a territory which is an associate member of the United Nations Economic Commission for Asia and the Far East.

CHAPTER II—CAPITAL

ARTICLE 4. AUTHORIZED CAPITAL

1. The authorized capital stock of the Bank shall be one billion dollars ($1,000,000,000)[2] in terms of United States dollars of the weight and fineness in effect on 31 January 1966. The dollar wherever referred to in this Agreement shall be understood as being a United States dollar of the above value. The authorized capital stock shall be divided into one hundred thousand (100,000) shares having a par value of ten thousand dollars ($10,000) each, which shall be available for subscription only by members in accordance with the provisions of Article 5 of this Agreement.

2. The original authorized capital stock shall be divided into paid-in shares and callable shares. Shares having an aggregate par value of five hundred million dollars ($500,000,000) shall be paid-in shares, and shares having an aggregate par value of five hundred million dollars ($500,000,000) shall be callable shares.

3. The authorized capital stock of the Bank may be increased by the Board of Governors, at such time and under such terms and conditions as it may deem advisable, by a vote of two-thirds of the total number of Governors, representing not less than three-fourths of the total voting power of the members.

ARTICLE 5. SUBSCRIPTION OF SHARES

1. Each member shall subscribe to shares of the capital stock of the Bank. Each subscription to the original authorized capital stock shall be for paid-in shares and callable shares in equal parts. The initial number of shares to be subscribed by countries which become members in accordance with Article 64 of this Agreement shall be that set forth in Annex A hereof. The initial number of shares to be subscribed by countries which are admitted to membership in accordance with paragraph 2 of Article 3 of this Agreement shall be determined by the Board of Governors; provided, however, that no such subscription shall be authorized which would have the effect of reducing the percentage of capital stock

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[2] On Nov. 25, 1966, the Board of Governors increased the authorized capital stock of the Bank by $100 million, divided into 10,000 shares having a par value of $10,000 each of which 5,000 were paid-in shares and 5,000 callable shares.

On Nov. 30, 1971, the Board of Governors approved an increase in the authorized capital stock of the Bank by $1,650 million divided into 165,000 shares having a par value of $10,000 each. Of the newly authorised shares, 20% would be paid-in and 80% callable.

On Oct. 29, 1976, the Board of Governors approved an increase in the authorized capital stock of the Bank by $5 billion. Of the newly authorized shares, 90% would be callable and 10% paid-in. Effective Sept. 30, 1977, the total authorized capital of the Bank was $8.7 billion.

In 1984, the Board of Governors increased ADB authorized capital stock by an additional $8.1 billion to $14.473 billion.

held by regional members below sixty (60) percent of the total subscribed capital stock.

2. The Board of Governors shall at intervals of not less than five (5) years review the capital stock of the Bank. In case of an increase in the authorized capital stock, each member shall have a reasonable opportunity to subscribe, under such terms and conditions as the Board of Governors shall determine, to a proportion of the increase of stock equivalent to the proportion which its stock theretofore subscribed bears to the total subscribed capital stock immediately prior to such increase; provided, however, that the foregoing provision shall not apply in respect of any increase or portion of an increase in the authorized capital stock intended solely to give effect to determinations of the Board of Governors under paragraphs 1 and 3 of this Article. No member shall be obligated to subscribe to any part of an increase of capital stock.

3. The Board of Governors may, at the request of a member, increase the subscription of such member on such terms and conditions as the Board may determine; provided, however, that no such increase in the subscription of any member shall be authorized which would have the effect of reducing the percentage of capital stock held by regional members below sixty (60) percent of the total subscribed capital stock. The Board of Governors shall pay special regard to the request of any regional member having less than six (6) percent of the subscribed capital stock to increase its proportionate share thereof.

4. Shares of stock initially subscribed by members shall be issued at par. Other shares shall be issued at par unless the Board of Governors by a vote of a majority of the total number of Governors, representing a majority of the total voting power of the members, decides in special circumstances to issue them on other terms.

5. Shares of stock shall not be pledged or encumbered in any manner whatsoever, and they shall not be transferable except to the Bank in accordance with Chapter VII of this Agreement.

6. The liability of the members on shares shall be limited to the unpaid portion of their issue price.

7. No member shall be liable, by reason of its membership, for obligations of the Bank.

ARTICLE 6. PAYMENT OF SUBSCRIPTIONS [3]

1. Payment of the amount initially subscribed by each Signatory to this Agreement which becomes a member in accordance with

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[3] Public Law 89-426 appropriated $140,000,000, of which $20,000,000 was paid in fiscal year 1967 and $20,000,000 in fiscal year 1968, with the remainder subject to call. $20,000,000 was appropriated annually in fiscal year 1969, Public Law 90-581; fiscal year 1970, Public Law 91-194; and fiscal year 1971, Public Law 91-619. Additional appropriations include: $50,000,000 (FY 1974, Public Law 93-240); $74,126,982 (FY 1975, Public Law 94-11), $145,634,909 (FY 1976 and TQ, Public Law 94-330); $90,477,000 (FY 1977, Public Law 94-441); $217,500,000 (FY 1978, Public Law 95-148) $265,000,000 (FY 1979, Public Law 95-481); $153,742,000 (FY 1980, Public Law 96-123 (continuing resolution)); $28,362,000 (plus $223,380,000 in callable capital limitation) (FY 1981, Public Law 96-536 (continuing resolution)). $12,562,000 (plus $42,632,000 in callable capital limitation) (FY 1982, Public Law 97-521), $20,362,000 (plus $2,244,000 in callable capital limitation) (FY 1983, Public Law 87-276/97-377), $113.2 million paid in capital for fiscal year 1984 (plus $1.500 billion limit on callable capital subscription); $304.5 million paid in capital for fiscal 1985 (plus $2.727 billion limit on subscription to callable capital), and $111.9 million for fiscal 1986 (plus $1.492 billion limitation on callable capital subscription).

Article 64 to the paid-in capital stock of the Bank shall be made in five (5) installments of twenty (20) percent each of such amount. The first installment shall be paid by each member within thirty (30) days after entry into force of this Agreement, or on or before the date of deposit on its behalf of its instrument of ratification or acceptance in accordance with paragraph 1 of Article 64, whichever is later. The second installment shall become due one (1) year from the entry into force of this Agreement. The remaining three installments shall each become due successively one (1) year from the date on which the preceding installment becomes due.

2. Of each installment for the payment of initial subscriptions to the original paid-in capital stock:

(a) fifty (50) percent shall be paid in gold or convertible currency; and

(b) fifty (50) percent in the currency of the number.

3. The Bank shall accept from any member promissory notes or other obligations issued by the Government of the member, or by the depository designated by such member, in lieu of the amount to be paid in the currency of the member pursuant to paragraph 2(b) of this Article, provided such currency is not required by the Bank for the conduct of its operations. Such notes or obligations shall be non-negotiable, non-interest-bearing, and payable to the Bank at par value upon demand. Subject to the provisions of paragraph (2)(ii) of Article 24, demands upon such notes or obligations payable in convertible currencies shall, over reasonable periods of time, be uniform in percentage on all such notes or obligations.

4. Each payment of a member in its own currency under paragraph 2(b) of this Article shall be in such amount as the Bank, after such consultation with the International Monetary Fund as the Bank may consider necessary and utilizing the par value established with the International Monetary Fund, if any, determines to be equivalent to the full value in terms of dollars of the portion of the subscription being paid. The initial payment shall be in such amount as the member considers appropriate hereunder but shall be subject to such adjustment, to be effected within ninety (90) days of the date on which such payment was due, as the Bank shall determine to be necessary to constitute the full dollar equivalent of such payment.

5. Payment of the amount subscribed to the callable capital stock of the Bank shall be subject to call only as when required by the Bank to meet its obligations incurred under sub-paragraphs (ii) and (iv) of Article 11 on borrowings of funds for inclusion in its ordinary capital resources or on guarantees chargeable to such resources.

6. In the event of the call referred to in paragraph 5 of this Article, payment may be made at the option of the member in gold, convertible currency or in the currency required to discharge the obligations of the Bank for the purposes of which the call is made. Calls on unpaid subscriptions shall be uniform in percentage on all callable shares.

7. The Bank shall determine the place for any payment under this Article, provided that, until the inaugural meeting of its Board of Governors, the payment of the first installment referred to in

paragraph 1 of this Article shall be made to the Secretary-General of the United Nations, as Trustee for the Bank.

ARTICLE 7. ORDINARY CAPITAL RESOURCES

As used in this Agreement, the term "ordinary capital resources" of the Bank shall include the following:

(i) authorized capital stock of the Bank, including both paid-in and callable shares, subscribed pursuant to Article 5 of this Agreement, except such part thereof as may be set aside into one or more Special Funds in accordance with paragraph 1(i) of Article 19 of this Agreement;

(ii) funds raised by borrowings of the Bank by virtue of powers conferred by sub-paragraph (i) of Article 21 of this Agreement, to which the commitment to calls provided for in paragraph 5 of Article 6 of this Agreement is applicable;

(iii) funds received in repayment of loans or guarantees made with the resources indicated in (i) and (ii) of this Article;

(iv) income derived from loans made from the aforementioned funds or from guarantees to which the commitment to calls set forth in paragraph 5 of Article 6 of this Agreement is applicable; and

(v) any other funds or income received by the Bank which do not form part of its Special Funds resources referred to in Article 20 of this Agreement.

CHAPTER III—OPERATIONS

ARTICLE 8. USE OF RESOURCES

The resources and facilities of the Bank will be used exclusively to implement the purpose and functions set forth respectively in Articles 1 and 2 of this Agreement.

ARTICLE 9. ORDINARY AND SPECIAL OPERATIONS

1. The operations of the Bank shall consist of ordinary operations and special operations.

2. Ordinary operations shall be those financed from the ordinary capital resources of the Bank.

3. Special operations shall be those financed from the Special Funds resources referred to in Article 20 of this Agreement.

ARTICLE 10. SEPARATION OF OPERATIONS

1. To ordinary capital resources and the Special Funds resources of the Bank shall at all times and in all respects be held, used, committed, invested or otherwise disposed of entirely separate from each other. The financial statements of the Bank shall show the ordinary operations and special operations separately.

2. The ordinary capital resources of the Bank shall under no circumstances be charged with, or used to discharge, losses or liabilities arising out of special operations or other activities for which Special Funds resources were originally used or committed.

3. Expenses appertaining directly to ordinary operations shall be charged to the ordinary capital resources of the Bank. Expenses appertaining directly to the special operations shall be charged to the

Special Funds resources. Any other expenses shall be charged as the Bank shall determine.

ARTICLE 11. RECIPIENTS AND METHODS OF OPERATION

Subject to the conditions stipulated in this Agreement, the Bank may provide or facilitate financing to any member, or any agency, instrumentality or political subdivision thereof, or any entity or enterprise operating in the territory of a member, as well as to international or regional agencies or entities concerned with economic development of the region. The Bank may carry out its operations in any of the following ways:

(i) by making or participating in direct loans with its unimpaired paid-in capital and, except as provided in Article 17 of this Agreement, with its reserves and undistributed surplus; or with the unimpaired Special Funds resources;

(ii) by making or participating in direct loans with funds raised by the Bank in capital markets or borrowed or otherwise acquired by the Bank for inclusion in its ordinary capital resources;

(iii) by investment of funds referred to in (i) and (ii) of this Article in the equity capital of an institution or enterprise, provided no such investment shall be made until after the Board of Governors, by a vote of a majority of a total number of Governors, representing a majority of the total voting power of the members, shall have determined that the Bank is in a position to commence such type of operations; or

(iv) by guaranteeing, whether as primary or secondary obligor, in whole or in part, loans for economic development participated in by the Bank.

ARTICLE 12. LIMITATIONS ON ORDINARY OPERATIONS

1. The total amount outstanding of loans, equity investments and guarantees made by the Bank in its ordinary operations shall not at any time exceed the total amount of its unimpaired subscribed capital, reserves and surplus included in its ordinary capital resources, exclusive of the special reserve provided for by Article 17 of this Agreement and other reserves not available for ordinary operations.

2. In the case of loans made with funds borrowed by the Bank to which the commitment to calls provided for by paragraph 5 of Article 6 of this Agreement is applicable, the total amount of principal outstanding and payable to the Bank in a specific currency shall not at any time exceed the total amount of the principal of outstanding borrowings by the Bank that are payable in the same currency.

3. In the case of funds invested in equity capital out of the ordinary capital resources of the Bank, the total amount invested shall not exceed ten (10) percent of the aggregate amount of the unimpaired paid-in capital stock of the Bank actually paid up at any given time together with the reserves the surplus included in its ordinary capital resources, exclusive of the special reserve provided in Article 17 of this Agreement.

4. The amount of any equity investment shall not exceed such percentage of the equity capital of the entity or enterprise concerned as the Board of Directors shall in each specific case determine to be appropriate. The Bank shall not seek to obtain by such an investment a controlling interest in the entity or enterprise concerned, except where necessary to safeguard the investment of the Bank.

ARTICLE 13. PROVISION OF CURRENCIES FOR DIRECT LOANS

In making direct loans or participating in them, the Bank may provide financing in any of the following ways:

(i) by furnishing the borrower with currencies other than the currency of the member in whose territory the project concerned is to be carried out (the latter currency herinafter to be called "local currency"), which are necessary to meet the foreign exchange costs of such project; or

(ii) by providing financing to meet local expenditures on the project concerned, where it can do so by supplying local currency without selling any of its holdings in gold or convertible currencies. In special cases when, in the opinion of the Bank, the project causes or is likely to cause undue loss or strain on the balance of payments of the member in whose territory the project is to be carried out, the financing granted by the Bank to meet local expenditures may be provided in currencies other than that of such member; in such cases, the amount of the financing granted by the Bank for this purpose shall not exceed a reasonable portion of the total local expenditure incurred by the borrower.

ARTICLE 14. OPERATING PRINCIPLES

The operations of the Bank shall be conducted in accordance with the following principles:

(i) The operations of the Bank shall provide principally for the financing of specific projects, including those forming part of a national sub-regional or regional development programme. They may, however, include loans to, or guarantees of loans made to, national development banks or other suitable entities, in order that the latter may finance specific development projects whose individual financing requirements are not, in the opinion of the Bank, large enough to warrant the direct supervision of the Bank;

(ii) In selecting suitable projects, the Bank shall always be guided by the provisions of paragraph (ii) of Article 2 of this Agreement;

(iii) The Bank shall not finance any undertaking in the territory of a member if that member objects to such financing;

(iv) Before a loan is granted, the applicant shall have submitted an adequate loan proposal and the President of the Bank shall have presented to the Board of Directors a written report regarding the proposal, together with his recommendations, on the basis of a staff study;

(v) In considering an application for a loan or guarantee, the Bank shall pay due regard to the ability of the borrower to obtain financing or facilities elsewhere on terms and conditions that the Bank considers reasonable for the recipient, taking into account all pertinent factors;

(vi) In making or guaranteeing a loan, the Bank shall pay due regard to the prospects that the borrower and its guarantor, if any, will be in a position to meet their obligations under the loan contract;

(vii) In making or guaranteeing a loan, the rate of interest, other charges and the schedule for repayment of principal shall be such as are, in the opinion of the Bank, appropriate for the loan concerned;

(viii) In guaranteeing a loan made by other investors, or in underwriting the sale of securities, the Bank shall receive suitable compensation for its risk;

(ix) The proceeds of any loan, investment or other financing undertaken in the ordinary operations of the Bank or with Special Funds established by the Bank pursuant to paragraph 1(i) of Article 19, shall be used only for procurement in member countries of goods and services produced in member countries, except in any case in which the Board of Directors, by a vote of the Directors representing not less than two-thirds of the total voting power of the members, determines to permit procurement in a non-member country or of goods and services produced in a non-member country in special circumstances making such procurement appropriate, as in the case of a non-member country in which a significant amount of financing has been provided to the Bank;

(x) In the case of a direct loan made by the Bank, the borrower shall be permitted by the Bank to draw its funds only to meet expenditures in connexion with the project as they are actually incurred;

(xi) The Bank shall take the necessary measures to ensure that the proceeds of any loan made, guaranteed or participated in by the Bank are used only for the purposes for which the loan was granted and with due attention to considerations of economy and efficiency;

(xii) The Bank shall pay due regard to the desirability of avoiding a disproportionate amount of its resources being used for the benefit of any member;

(xiii) The Bank shall seek to maintain reasonable diversification in its investments in equity capital; it shall not assume responsibility for managing any entity or enterprise in which it has an investment, except where necessary to safeguard its investments; and

(xiv) The Bank shall be guided by sound banking principles in its operations.

ARTICLE 15. TERMS AND CONDITIONS FOR DIRECT LOANS AND GUARANTEES

1. In the case of direct loans made or participated in or loans guaranteed by the Bank, the contract shall establish, in conformity with the operating principles set forth in Article 14 of this Agreement and subject to the other provisions of this Agreement, the

terms and conditions for the loan or the guarantee concerned, including those relating to payment of principal, interest and other charges, maturities, and dates of payment in respect to the loan, or the fees and other charges in respect of the guarantee, respectively. In particular, the contract shall provide that, subject to paragraph 3 of this Article, all payments to the Bank under the contract shall be made in the currency loaned, unless, in the case of a direct loan made or a loan guaranteed as part of special operations with funds provided under paragraph 1(ii) of Article 19, the rules and regulations of the Bank provide otherwise. Guarantees by the Bank shall also provide that the Bank may terminate its liability with respect to interest if, upon default by the borrower and the guarantor, if any, the Bank offers to purchase at par and interest accrued to a date designated in the offer, the bonds or other obligations guaranteed.

2. Where the recipient of loans or guarantees of loans is not itself a member, the Bank may, when it deems it advisable, require that the member in whose territory the project concerned is to be carried out, or a public agency or any instrumentality of that member acceptable to the Bank, guarantee the repayment of the principal and the payment of interest and other charges on the loan in accordance with the terms thereof.

3. The loan or guarantee contract shall expressly state the currency in which all payments to the Bank thereunder shall be made. At the option of the borrower, however, such payments may always be made in gold or convertible currency.

ARTICLE 16. COMMISSION AND FEES

1. The Bank shall charge, in addition to interest, a commission on direct loans made or participated in as part of its ordinary operations. This commission, payable periodically, shall be computed on the amount outstanding on each loan or participation and shall be at the rate of not less than one (1) percent per annum, unless the Bank, after the first five (5) years of its operations, decides to reduce this minimum rate by a two-thirds majority of its members, representing not less than three-fourths of the total voting power of the members.

2. In guaranteeing a loan as part of its ordinary operations, the Bank shall charge a guarantee fee, at a rate determined by the Board of Directors, payable periodically on the amount of the loan outstanding.

3. Other charges of the Bank in its ordinary operations and any commission, fees or other charges in its special operations shall be determined by the Board of Directors.

ARTICLE 17. SPECIAL RESERVE

The amount of commissions and guarantee fees received by the Bank pursuant to Article 16 of this Agreement shall be set aside as a special reserve which shall be kept for meeting liabilities of the Bank in accordance with Article 18 of this Agreement. The special reserve shall be held in such liquid form as the Board of Directors may decide.

ARTICLE 18. METHODS OF MEETING LIABILITIES OF THE BANK

1. In cases of default on loans made, participated in or guaranteed by the Bank in its ordinary operations, the Bank shall take such action as it deems appropriate with respect to modifying the terms of the loan, other than the currency of repayment.

2. The payments in discharge of the Bank's liabilities on borrowings or guarantees under sub-paragraphs (ii) and (iv) or Article 11 chargeable to the ordinary capital resources shall be charged:

(i) First, against the special reserve provided for in Article 17;

(ii) Then, to the extent necessary and at the discretion of the Bank, against the other reserves, surplus and capital available to the Bank.

3. Whenever necessary to meet contractual payments of interest, other charges or amortization on borrowings of the Bank in its ordinary operations, or to meet its liabilities with respect to similar payments in respect of loans guaranteed by it, chargeable to its ordinary capital resources, the Bank may call an appropriate amount of the uncalled subscribed callable capital in accordance with paragraphs 6 and 7 of Article 6 of this Agreement.

4. In cases of default in respect of a loan made from borrowed funds or guaranteed by the Bank as part of its ordinary operations, the Bank may, if it believes that the default may be of long duration, call an additional amount of such callable capital not to exceed in any one (1) year one (1) percent of the total subscriptions of the members to such capital, for the following purposes:

(i) To redeem before maturity, or otherwise discharge, the Bank's liability on all or part of the outstanding principal of any loan guaranteed by it in respect of which the debtor is in default; and

(ii) To repurchase, or otherwise discharge, the Bank's liability on all or part of its own outstanding borrowing.

5. If the Bank's subscribed callable capital stock shall be entirely called pursuant to paragraphs 3 and 4 of this Article, the Bank may, if necessary for the purposes specified in paragraph 3 of this Article, use or exchange the currency of any member without restriction, including any restriction imposed pursuant to paragraphs 2 (i) and (ii) of Article 24.

ARTICLE 19. SPECIAL FUNDS

1. The Bank may:

(i) set aside, by a vote of two-thirds of the total number of Governors, representing at least three-fourths of the total voting power of the members, not more than ten (10) percent each of the portion of the unimpaired paid-in capital of the Bank paid by members pursuant to paragraph 2(a) of Article 6 and of the portion thereof paid pursuant to paragraph 2(b) of Article 6, and establish therewith one or more Special Funds; and

(ii) accept the administration of Special Funds which are designed to serve the purpose and come within the functions of the Bank.

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2. Special Funds established by the Bank pursuant to paragraph 1(i) of this Article may be used to guarantee or make loans of high developmental priority, with longer maturities, longer deferred commencement of repayment and lower interest rates than those established by the Bank for its ordinary operations. Such Funds may also be used on such other terms and conditions, not inconsistent with the applicable provisions of this Agreement nor with the character of such Funds as revolving funds, as the Bank in establishing such Funds may direct.

3. Special Funds accepted by the Bank under paragraph 1(ii) of this Article may be used in any manner and on any terms and conditions not inconsistent with the purpose of the Bank and with the agreement relating to such Funds.

4. The Bank shall adopt such special rules and regulations as may be required for the establishment, administration, and use of each Special Fund. Such rules and regulations shall be consistent with the provisions of this Agreement, excepting those provisions expressly applicable only to ordinary operations of the Bank.

ARTICLE 20. SPECIAL FUNDS RESOURCES

As used in this Agreement, the term "Special Funds resources" shall refer to the resources of any Special Fund and shall include:

(a) resources set aside from the paid-in capital to a Special Fund or otherwise initially contributed to any Special Fund;

(b) funds accepted by the Bank for inclusion in any Special Fund;

(c) funds repaid in respect of loans or guarantees financed from the resources of any Special Fund which, under the rules and regulations of the Bank governing that Special Fund, are received by such Special Fund;

(d) income derived from operations of the Bank in which any of the aforementioned resources or funds are used or committed if, under the rules and regulations of the Bank governing the Special Fund concerned, that income accrues to such Special Fund; and

(e) any other resources placed at the disposal of any Special Fund.

CHAPTER IV—BORROWING AND OTHER MISCELLANEOUS POWERS

ARTICLE 21. GENERAL POWERS

In addition to the powers specified elsewhere in this Agreement, the Bank shall have the power to:

(i) borrow funds in member countries or elsewhere, and in this connexion to furnish such collateral or other security therefor as the Bank shall determine, provided always that:

(a) before making a sale of its obligations in the territory of a country, the Bank shall have obtained its approval;

(b) where the obligations of the Bank are to be denominated in the currency of a member, the Bank shall have obtained its approval;

(c) the Bank shall obtain the approval of the countries referred to in sub-paragraphs (a) and (b) of this paragraph that the proceeds may be exchanged for the currency of any member without restriction; and

(d) before determining to sell its obligations in a particular country, the Bank shall consider the amount of previous borrowing, if any, in that country, the amount of previous borrowing in other countries, and the possible availability of funds in such other countries; and shall give due regard to the general principle that its borrowings should to the greatest extent possible be diversified as to country of borrowing;

(ii) buy and sell securities the Bank has issued or guaranteed or in which it has invested, provided always that it shall have obtained the approval of any country in whose territory the securities are to be bought or sold;

(iii) guarantee securities in which it has invested in order to facilitate their sale;

(iv) underwrite, or participate in the underwriting of, securities issued by any entity or enterprise for purposes consistent with the purpose of the Bank;

(v) invest funds, not needed in its operations, in the territories of members in such obligations of members or nationals thereof as it may determine, and invest funds held by the Bank for pensions or similar purposes in the territories of members in marketable securities issued by members or nationals thereof;

(vi) provide technical advice and assistance which serve its purpose and come within its functions, and where expenditures incurred in furnishing such services are not reimbursable, charge the net income of the Bank therewith; in the first five (5) years of its operations, the Bank may use up to two (2) per cent of its paid-in capital for furnishing such services on a non-reimbursable basis; and

(vii) exercise such other powers and establish such rules and regulations as may be necessary or appropriate in furtherance of its purpose and functions, consistent with the provisions of this Agreement.

ARTICLE 22. NOTICE TO BE PLACED ON SECURITIES

Every security issued or guaranteed by the Bank shall bear on its face a conspicuous statement to the effect that it is not an obligation of any Government, unless it is in fact the obligation of a particular Government, in which case it shall so state.

CHAPTER V—CURRENCIES

ARTICLE 23. DETERMINATION OF CONVERTIBILITY

Whenever it shall become necessary under this Agreement to determine whether any currency is convertible, such determination shall be made by the Bank after consultation with the International Monetary Fund.

ARTICLE 24. USE OF CURRENCIES

1. Members may not maintain or impose any restrictions on the holding or use by the Bank or by any recipient from the Bank, for payments in any country, of the following:

(i) gold or convertible currencies received by the Bank in payment of subscriptions to its capital stock, other than that paid to the Bank by members pursuant to paragraph 2(b) of Article 6 and restricted pursuant to paragraph 2 (i) and (ii) of this Article;

(ii) currencies of members purchased with the gold or convertible currencies referred to in the preceding sub-paragraph;

(iii) currencies obtained by the Bank by borrowing, pursuant to sub-paragraph (i) of Article 21 of this Agreement, for inclusion in its ordinary capital resources;

(iv) gold or currencies received by the Bank in payment on account of principal, interest, dividends or other changes in respect of loans or investments made out of any of the funds referred to in sub-paragraphs (i) to (iii) of this paragraph or in payment of fees in respect of guarantees made by the Bank; and

(v) currencies, other than the member's own currency, received by the member from the Bank in distribution of the net income of the Bank in accordance with Article 40 of this Agreement.

2. Members may not maintain or impose any restriction on the holding or use by the Bank or by any recipient from the Bank, for payments in any country, of currency of a member received by the Bank which does not come within the provisions of the preceding paragraph unless:

(i) a developing member country, after consultation with and subject to periodic review by the Bank, restricts in whole or in part the use of such currency to payments for goods or services produced and intended for use in its territory; or

(ii) any other member whose subscription has been determined in Part A of Annex A hereof and whose exports of industrial products do not represent a substantial proportion of its total exports, deposits with its instrument of ratification or acceptance a declaration that it desires the use of the portion of its subscription paid pursuant to paragraph 2(b) of Article 6 to be restricted, in whole or in part, to payments for goods or services produced in its territory; provided that such restrictions be subject to periodic review by and consultation with the Bank and that any purchases of goods or services in the territory of that member, subject to the usual consideration of competitive tendering, shall be first charged against the portion of its subscription paid pursuant to paragraph 2(b) of Article 6; or

(iii) such currency forms part of the Special Funds resources of the Bank available under paragraph 1(ii) of Article 19 and its use is subject to special rules and regulations.

3. Members may not maintain or impose any restrictions on the holding or use by the Bank, for making amortization payments or anticipatory payments or for repurchasing in whole or in part the Bank's own obligations, of currencies received by the Bank in re-

payment of direct loans made out of its ordinary capital resources, provided, however, that until the Bank's subscribed callable capital stock has been entirely called, such holding or use shall be subject to any limitations imposed pursuant to paragraph 2(i) of this Article except in respect of obligations payable in the currency of the member concerned.

4. Gold or currencies held by the Bank shall not be used by the Bank to purchase other currencies of members or non-members except:

(i) in order to meet its obligation in the ordinary course of its business; or

(ii) pursuant to a decision of the Board of Directors adopted by a vote of the Directors representing not less than two-thirds of the total voting powers of the members.

5. Nothing herein contained shall prevent the Bank from using the currency of any member for administrative expenses by the Bank in the territory of such member.

ARTICLE 25. MAINTENANCE OF VALUE OF THE CURRENCY HOLDINGS OF THE BANK

1. Whenever (a) the par value in the International Monetary Fund of the currency of a member is reduced in terms of the dollar defined in Article 4 of this Agreement, or (b) in the opinion of the Bank, after consultation with the International Monetary Fund, the foreign exchange value of a member's currency has depreciated to a significant extent, that member shall pay to the Bank within a reasonable time an additional amount of its currency required to maintain the value of all such currency held by the Bank, excepting (a) currency derived by the Bank from its borrowings, and (b) unless otherwise provided in the agreement establishing such Funds, Special Funds resources accepted by the Bank under paragraph 1(ii) of Article 19.

2. Whenever (a) the par value in the International Monetary Fund of the currency of a member is increased in terms of the said dollar, or (b) in the opinion of the Bank, after consultation with the International Monetary Fund, the foreign exchange value of a member's currency has appreciated to a significant extent, the Bank shall pay to that member within a reasonable time an amount of that currency required to adjust the value of all such currency held by the Bank excepting (a) currency derived by the Bank from its borrowings, and (b) unless otherwise provided in the agreement establishing such Funds, Special Funds resources accepted by the Bank under paragraph 1(ii) of Article 19.

3. The Bank may waive the provisions of this Article when a uniform proportionate change in the par value of the currencies of all its members takes place.

CHAPTER VI—ORGANIZATION AND MANAGEMENT

ARTICLE 26. STRUCTURE

The Bank shall have a Board of Governors, a Board of Directors, a President, one or more Vice-Presidents and such other officers and staff as may be considered necessary.

ARTICLE 27. BOARD OF GOVERNORS: COMPOSITION

1. Each member shall be represented on the Board of Governors and shall appoint one Governor and one alternate. Each Governor and alternate shall serve at the pleasure of the appointing member. No alternate may vote except in the absence of his principal. At its annual meeting, the Board shall designate one of the Governors as Chairman who shall hold office until the election of the next Chairman and the next annual meeting of the Board.

2. Governors and alternates shall serve as such without remuneration from the Bank, but the Bank may pay them reasonable expenses incurred in attending meetings.

ARTICLE 28. BOARD OF GOVERNORS: POWERS

1. All the powers of the Bank shall be vested in the Board of Governors.

2. The Board of Governors may delegate to the Board of Directors any or all its powers, except the power to:

(i) admit new members and determine the conditions of their admission;

(ii) increase or decrease the authorized capital stock of the Bank;

(iii) suspend a member;

(iv) decide appeals from interpretations or applications of this Agreement given by the Board of Directors;

(v) authorize the conclusion of general agreements for cooperation with other international organizations;

(vi) elect the Directors and the President of the Bank;

(vii) determine the remuneration of the Directors and their alternates and the salary and other terms of the contract of service of the President;

(viii) approve, after reviewing the auditors' report, the general balance sheet and the statement of profit and loss of the Bank;

(ix) determine the reserves and the distribution of the net profits of the Bank;

(x) amend this Agreement;

(xi) decide to terminate the operations of the Bank and to distribute its assets; and

(xii) exercise such other powers as are expressly assigned to the Board of Governors in this Agreement.

3. The Board of Governors shall retain full power to exercise authority over any matter delegated to the Board of Directors under paragraph 2 of this Article.

4. For the purposes of this Agreement, the Board of Governors may, by a vote of two-thirds of the total number of Governors, representing not less than three-fourths of the total voting power of the members, from time to time determine which countries or members of the Bank are to be regarded as developing countries or members, taking into account appropriate economic considerations.

ARTICLE 29. BOARD OF GOVERNORS: PROCEDURE

1. The Board of Governors shall hold an annual meeting and such other meetings as may be provided for by the Board or called

by the Board of Directors. Meetings of the Board of Governors shall be called, by the Board of Directors, whenever requested by five (5) members of the Bank.

2. A majority of the Governors shall constitute a quorum for any meeting of the Board of Governors, provided such majority represents not less than two-thirds of the total voting power of the members.

3. The Board of Governors may by regulation establish a procedure whereby the Board of Directors may, when the latter deems such action advisable, obtain a vote of the Governors on a specific question without calling a meeting of the Board of Governors.

4. The Board of Governors, and the Board of Directors to the extent authorized, may establish such subsidy bodies as may be necessary or appropriate to conduct the business of the Bank.

ARTICLE 30. BOARD OF DIRECTORS: COMPOSITION

1. (i) The Board of Directors shall be composed of ten (10) members who shall not be members of the Board of Governors, and of whom:

(a) seven (7) shall be elected by the Governors representing regional members; and

(b) three (3) by the Governors representing non-regional members.

Directors shall be persons of high competence in economic and financial matters and shall be elected in accordance with Annex B hereof.

(ii) At the Second Annual Meeting of the Board of Governors after its inaugural meeting, the Board of Governors shall review the size and composition of the Board of Directors, and shall increase the number of Directors as appropriate, paying special regard to the desirability, in the circumstances at that time, of increasing representation in the Board of Directors of smaller less developed member countries. Decisions under this paragraph should be made by a vote of majority of the total number of Governors, representing not less than two-thirds of the total voting power of the members.

2. Each Director shall appoint an alternate with full power to act for him when he is not present. Directors and alternates shall be nationals of member countries. No two or more Directors may be of the same nationality nor may any two or more alternates be of the same nationality. An alternate may participate in meetings of the Board but may vote only when he is acting in place of his principal.

3. Directors shall hold office for a term of two (2) years and may be re-elected. They shall continue in office until their successors shall have been chosen and qualified. If the office of a Director becomes vacant more than one hundred and eighty (180) days before the end of his term, a successor shall be chosen in accordance with Annex B hereof, for the remainder of the term, by the Governors who elected the former Director. A majority of the votes cast by such Governors shall be required for such election. If the office of a Director becomes vacant one hundred and eighty (180) days or less before the end of his term, a successor may similarly be chosen for

the remainder of the term, by the Governors who elected the former Director, in which election a majority of the votes cast by such Governors shall be required. While the office remains vacant, the alternate of the former Director shall exercise the powers of the latter, except that of appointing an alternate.

ARTICLE 31. BOARD OF DIRECTORS: POWERS

The Board of Directors shall be responsible for the direction of the general operations of the Bank and, for this purpose, shall, in addition to the powers assigned to it expressly by this Agreement, exercise all the powers delegated to it by the Board of Governors, and in particular:

(i) prepare the work of the Board of Governors;

(ii) in conformity with the general directions of the Board of Governors, take decisions concerning loans, guarantees, investments in equity capital, borrowing by the Bank, furnishing of technical assistance and other operations of the Bank;

(iii) submit the accounts for each financial year for approval of the Board of Governors at each annual meeting; and

(iv) approve the budget of the Bank.

ARTICLE 32. BOARD OF DIRECTORS: PROCEDURE

1. The Board of Directors shall normally function at the principal office of the Bank and shall meet as often as the business of the Bank may require.

2. A majority of the Directors shall constitute a quorum for any meeting of the Board of Directors, provided such majority represents not less than two-thirds of the total voting power of the members.

3. The Board of Governors shall adopt regulations under which, if there is no Director of its nationality, a member may send a representative to attend, without right to vote, any meeting of the Board of Directors when a matter particularly affecting that member is under consideration.

ARTICLE 33. VOTING

1. The total voting power of each member shall consist of the sum of its basic votes and proportional votes.

(i) The basic votes of each member shall consist of such number of votes as results from the equal distribution among all the members of twenty (20) percent of the aggregate sum of the basic votes and proportional votes of all the members.

(ii) The number of the proportional votes of each member shall be equal to the number of shares of the capital stock of the Bank held by that member.

2. In voting in the Board of Governors, each Governor shall be entitled to cast the votes of the member he represents. Except as otherwise expressly provided in this Agreement, all matters before the Board of Governors shall be decided by a majority of the voting power represented at the meeting.

3. In voting in the Board of Directors, each Director shall be entitled to cast the number of votes that counted towards his election which votes need not be cast as a unit. Except as otherwise ex-

pressly provided in this Agreement, all matters before the Board of Directors shall be decided by a majority of the voting power represented at the meeting.

ARTICLE 34. THE PRESIDENT

1. The Board of Governors, by a vote of a majority of the total number of Governors, representing not less than a majority of the total voting power of the members, shall elect a President of the Bank. He shall be a national of a regional member country. The President, while holding office, shall not be a Governor or a Director or an alternate for either.

2. The term of office of the President shall be five (5) years. He may be re-elected. He shall, however, cease to hold office when the Board of Governors so decides by a vote of two-thirds of the total number of Governors, representing not less than two-thirds of the total voting power of the members. If the office of the President for any reason becomes vacant more than one hundred and eighty (180) days before the end of his term, a successor shall be elected for the unexpired portion of such term by the Board of Governors in accordance with the provisions of paragraph 1 of this Article. If such office for any reason becomes vacant one hundred and eighty (180) days or less before the end of the term, a successor may similarly be elected for the unexpired portion of such term by the Board of Governors.

3. The President shall be Chairman of the Board of Directors but shall have no vote, except a deciding vote in case of an equal division. He may participate in meetings of the Board of Governors but shall not vote.

4. The President shall be the legal representative of the Bank.

5. The President shall be chief of the staff of the Bank and shall conduct, under the direction of the Board of Directors, the current business of the Bank. He shall be responsible for the organization, appointment and dismissal of the officers and staff in accordance with regulations adopted by the Board of Directors.

6. In appointing the officers and staff, the President shall, subject to the paramount importance of securing the highest standards of efficiency and technical competence, pay due regard to the recruitment of personnel on as wide a regional geographical basis as possible.

ARTICLE 35. VICE-PRESIDENT(S)

1. One or more Vice-Presidents shall be appointed by the Board of Directors on the recommendation of the President. Vice-President(s) shall hold office for such term, exercise such authority and perform such functions in the adminstration of the Bank, as may be determined by the Board of Directors. In the absence of incapacity of the President, the Vice-President or, if there be more than one, the ranking Vice-President, shall exercise the authority and perform the functions of the President.

2. Vice-President(s) may participate in meetings of the Board of Directors but shall have no vote at such meetings, except that the Vice-President or ranking Vice-President as the case may be, shall cast the deciding vote when acting in place of the President.

ARTICLE 36. PROHIBITION OF POLITICAL ACTIVITY: THE INTERNATIONAL CHARACTER OF THE BANK

1. The Bank shall not accept loans or assistance that may in any way prejudice, limit, deflect or otherwise alter its purpose or functions.

2. The Bank, its President, Vice-President(s), officers and staff shall not interfere in the political affairs of any member, nor shall they be influenced in their decisions by the political character of the member concerned. Only economic considerations shall be relevant to their decisions. Such considerations shall be weighed impartially in order to achieve and carry out the purpose and functions of the Bank.

3. The President, Vice-President(s), officers and staff of the Bank, in the discharge of their offices, owe their duty entirely to the Bank and to no other authority. Each member of the Bank shall respect the international character of this duty and shall refrain from all attempts to influence any of them in the discharge of their duties.

ARTICLE 37. OFFICE OF THE BANK

1. The principal office of the Bank shall be located in Manila, Philippines.

2. The Bank may establish agencies or branch offices elsewhere.

ARTICLE 38. CHANNEL OF COMMUNICATIONS, DEPOSITORIES

1. Each member shall designate an appropriate official entity with which the Bank may communicate in connexion with any matter arising under this Agreement.

2. Each member shall designate its central bank, or such other agency as may be agreed upon with the Bank, as a depository with which the Bank may keep its holdings of currency of that member as well as other assets of the Bank.

ARTICLE 39. WORKING LANGUAGE, REPORTS

1. The working language of the Bank shall be English.

2. The Bank shall transmit to its members an Annual Report containing an audited statement of its accounts and shall publish such Report. It shall also transmit quarterly to its members a summary statement of its financial position and a profit and loss statement showing the results of its operations.

3. The Bank may also publish such other reports as it deems desirable in the carrying out of its purpose and functions. Such reports shall be transmitted to the members of the Bank.

ARTICLE 40. ALLOCATION OF NET INCOME

1. The Board of Governors shall determine annually what part of the net income of the Bank, including the net income accruing to Special Funds, shall be allocated, after making provision for reserves, to surplus and what part, if any, shall be distributed to the members.

2. The distribution referred to in the preceding paragraph shall be made in proportion to the number of shares held by each member.

3. Payments shall be made in such manner and in such currency as the Board of Governors shall determine.

Chapter VII—Withdrawal and Suspension of Members, Temporary Suspension and Termination of Operations of the Bank

ARTICLE 41. WITHDRAWAL

1. Any member may withdraw from the Bank at any time by delivering a notice in writing to the Bank at its principal office.

2. Withdrawal by a member shall become effective, and its membership shall cease, on the date specified in its notice but in no event less than six (6) months after the date that notice has been received by the Bank. However, at any time before the withdrawal becomes finally effective, the member may notify the Bank in writing of the cancellation of its notice of intention to withdraw.

3. A withdrawing member shall remain liable for all direct and contingent obligations to the Bank to which it was subject at the date of delivery of the withdrawal notice. If the withdrawal becomes finally effective, the member shall not incur any liability for obligations resulting from operations of the Bank effected after the date on which the withdrawal notice was received by the Bank.

ARTICLE 42. SUSPENSION OF MEMBERSHIP

1. If a member fails to fulfill any of its obligations to the Bank, the Board of Governors may suspend such member by a vote of two-thirds of the total number of Governors, representing not less than three-fourths of the total voting power of the members.

2. The member so suspended shall cease to be a member of the Bank one (1) year from the date of its suspension unless the Board of Governors, during that one-year period, decides by the same majority necessary for suspension to restore the member to good standing.

3. While under suspension, a member shall not be entitled to exercise any rights under this Agreement, except the right of withdrawal, but shall remain subject to all its obligations.

ARTICLE 43. SETTLEMENT OF ACCOUNTS

1. After the date on which a country ceases to be a member, it shall remain liable for its direct obligations to the Bank and for its contingent liabilities to the Bank so long as any part of the loans or guarantees contracted before it ceased to be a member is outstanding; but it shall not incur liabilities with respect to loans and guarantees entered into thereafter by the Bank nor share either in the income or the expenses of the Bank.

2. At the time a country ceases to be a member, the Bank shall arrange for the repurchase of such country's shares by the Bank as a part of the settlement of accounts with such country in accordance with the provisions of paragraphs 3 and 4 of this Article. For this purpose, the repurchase price of the shares shall be the value

shown by the books of the Bank on the date the country ceases to be a member.

3. The payment for shares repurchased by the Bank under this Article shall be governed by the following conditions:

(i) Any amount due to the country concerned for its shares shall be withheld so long as that country, its central bank or any of its agencies, instrumentalities or political subdivisions remains liable, as borrower or guarantor, to the Bank and such amount may, at the option of the Bank, be applied on any such liability as it matures. No amount shall be withheld on account of the contingent liability of the country for future calls on its subscription for shares in accordance with paragraph 5 of Article 6 of this Agreement. In any event, no amount due to a member for its shares shall be paid until six (6) months after the date on which the country ceases to be a member.

(ii) Payments for shares may be made from time to time, upon surrender of the corresponding stock certificates by the country concerned, to the extent by which the amount due as the repurchase price in accordance with paragraph 2 of this Article exceeds the aggregate amount of liabilities on loans and guarantees referred to in subparagraph (i) of this paragraph, until the former member has received the full repurchase price.

(iii) Payments shall be made in such available currency as the Bank determines, taking into account its financial position.

(iv) If losses are sustained by the Bank on any guarantees or loans which were outstanding on the date when a country ceased to be a member and the amount of such losses exceeds the amount of the reserve provided against losses on that date, the country concerned shall repay, upon demand, the amount by which the repurchase price of its shares would have been reduced if the losses had been taken into account when the repurchase price was determined. In addition, the former member shall remain liable on any call for unpaid subscriptions in accordance with paragraph 5 of Article 6 of this Agreement, to the same extent that it would have been required to respond if the impairment of capital had occurred and the call had been made at the time the repurchase price of its shares was determined.

4. If the Bank terminates its operations pursuant to Article 45 of this Agreement within six (6) months of the date upon which any country ceases to be a member, all rights of the country concerned shall be determined in accordance with the provisions of Articles 45 to 47 of this Agreement. Such country shall be considered as still a member for purposes of such Articles but shall have no voting rights.

ARTICLE 44. TEMPORARY SUSPENSION OF OPERATIONS

In an emergency, the Board of Directors may temporarily suspend operations in respect of new loans and guarantees, pending an opportunity for further consideration and action by the Board of Governors.

ARTICLE 45. TERMINATION OF OPERATIONS

1. The Bank may terminate its operations by a resolution of the Board of Governors approved by a vote of two-thirds of the total number of Governors, representing not less than three-fourths of the total voting power of the members.

2. After such termination, the Bank shall forthwith cease all activities except those incident to the orderly realization, conservation and preservation of its assets and settlement of its obligations.

ARTICLE 46. LIABILITY OF MEMBERS AND PAYMENT OF CLAIMS

1. In the event of termination of operations of the Bank, the liability of all members for uncalled subscriptions to the capital stock of the Bank and in respect of the depreciation of their currencies shall continue until all claims of creditors, including all contingent claims, shall have been discharged.

2. All creditors holding direct claims shall first be paid out of the assets of the Bank and then out of payments to the Bank on unpaid or callable subscriptions. Before making any payments to creditors holding direct claims, the Board of Directors shall make such arrangements as are necessary, in its judgment, to insure a pro rata distribution among holders of direct and contingent claims.

ARTICLE 47. DISTRIBUTION OF ASSETS

1. No distribution of assets shall be made to members on account of their subscriptions to the capital stock of the Bank until all liabilities to creditors shall have been discharged or provided for. Moreover, such distribution must be approved by the Board of Governors by a vote of two-thirds of the total number of Governors, representing not less than three-fourths of the total voting power of the members.

2. Any distribution of the assets of the Bank to the members shall be in proportion to the capital stock held by each member and shall be effected at such times and under such conditions as the Bank shall deem fair and equitable. The shares of assets distributed need not be uniform as to type of asset. No member shall be entitled to receive his share in such a distribution of assets until it has settled all of its obligations to the Bank.

3. Any member receiving assets distributed pursuant to this article shall enjoy the same rights with respect to such assets as the Bank enjoyed prior to their distribution.

CHAPTER VIII—STATUS, IMMUNITIES, EXEMPTIONS, AND PRIVILEGES

ARTICLE 48. PURPOSE OF CHAPTER

To enable the Bank effectively to fulfill its purpose and carry out the functions entrusted to it, the status, immunities, exemptions and privileges set forth in this Chapter shall be accorded to the Bank in the territory of each member.

ARTICLE 49. LEGAL STATUS

The Bank shall possess full juridical personality and, in particular, full capacity:

(i) to contract;

(ii) to acquire, and dispose of, immovable and movable property; and

(iii) to institute legal proceedings.

ARTICLE 50. IMMUNITY FROM JUDICIAL PROCEEDINGS

1. The Bank shall enjoy immunity from every form of legal process, except in cases arising out of or in connexion with the exercise of its powers to borrow money, to guarantee obligations, or to buy and sell or underwrite the sale of securities, in which cases actions may be brought against the Bank in a court of competent jurisdiction in the territory of a country in which the Bank has its principal or a branch office, or has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities.

2. Notwithstanding the provisions of paragraph 1 of this article, no action shall be brought against the Bank by any member, or by any agency or instrumentality of a member, or by any entity or person directly or indirectly acting for or deriving claims from a member or from any agency or instrumentality of a member. Members shall have recourse to such special procedures for the settlement of controversies between the Bank and its members as may be prescribed in this Agreement, in the bylaws and regulations of the Bank, or in contracts entered into with the Bank.

3. Property and assets of the Bank shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank.

ARTICLE 51. IMMUNITY OF ASSETS

Property and assets of the Bank, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

ARTICLE 52. IMMUNITY OF ARCHIVES

The archives of the Bank and, in general, all documents belonging to it, or held by it, shall be inviolable, wherever located.

ARTICLE 53. FREEDOM OF ASSETS FROM RESTRICTIONS

To the extent necessary to carry out the purpose and functions of the Bank effectively, and subject to the provisions of this Agreement, all property and assets of the Bank shall be free from restrictions, regulations, controls, and moratoria of any nature.

ARTICLE 54. PRIVILEGE FOR COMMUNICATIONS

Official communications of the Bank shall be accorded by each member treatment not less favorable than that it accords to the official communications of any other member.

ARTICLE 55. IMMUNITIES AND PRIVILEGES OF BANK PERSONNEL

All Governors, Directors, alternates, officers and employees of the Bank, including experts performing missions for the Bank:

(i) shall be immune from legal process with respect to acts performed by them in their official capacity, except when the Bank waives the immunity;

(ii) where they are not local citizens or nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations, and the same facilities as regards exchange regulations, as are accorded by members to the representatives, officials and employees of comparable rank of other members; and

(iii) shall be granted the same treatment in respect of traveling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

ARTICLE 56. EXEMPTION FROM TAXATION

Declaration:

Acceptance deposited Aug. 16, 1966, with a declaration that ". . . the United States of America retains for itself and for all political subdivisions of the United States of America the right to tax salaries and emoluments paid by the Asian Development Bank to any citizen or national of the United States of America," in accordance with article 56(2) of the agreement.

1. The Bank, its assets, property, income and its operations and transactions, shall be exempt from all taxation and from all customs duties. The Bank shall also be exempt from any obligation for the payment, withholding or collection of any tax or duty.

2. No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to Directors, alternates, officers or employees of the Bank, including experts performing missions for the Bank, except where a member deposits with its instrument of ratification or acceptance a declaration that such member retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Bank to citizens or nationals of such member.

3. No tax of any kind shall be levied on any obligation or security issued by the Bank, including any dividend or interest thereon, by whomsoever held:

(i) which discriminates against such obligation or security solely because it is issued by the Bank; or

(ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank.

4. No tax of any kind shall be levied on any obligation or security guaranteed by the Bank, including any dividend or interest thereon, by whomsoever held:

(i) which discriminates against such obligation or security solely because it is guaranteed by the Bank; or

(ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.

ARTICLE 57. IMPLEMENTATION

Each member, in accordance with its juridical system, shall promptly take such action as is necessary to make effective in its own territory the provisions set forth in this Chapter and shall inform the Bank of the action which it has taken on the matter.

ARTICLE 58. WAIVER OF IMMUNITIES, EXEMPTIONS, AND PRIVILEGES

The Bank at its discretion may waive any of the privileges, immunities and exemptions conferred under this Chapter in any case or instance, in such manner and upon such conditions as it may determine to be appropriate in the best interests of the Bank.

CHAPTER IX—AMENDMENTS, INTERPRETATIONS, ARBITRATION

ARTICLE 59. AMENDMENTS

1. This Agreement may be amended only by a resolution of the Board of Governors approved by a vote of two-thirds of the total number of Governors, representing not less than three-fourths of the total voting power of the members.

2. Notwithstanding the provisions of paragraph 1 of this Article, the unanimous agreement of the Board of Governors shall be required for the approval of any amendment modifying:

(i) the right to withdraw from the Bank;

(ii) the limitations on liability provided in paragraphs 6 and 7 of Article 5; and

(iii) the rights pertaining to purchase of capital stock provided in paragraph 2 of Article 5.

3. Any proposal to amend this Agreement, whether emanating from a member of the Board of Directors shall be communicated to the Chairman of the Board of Governors, who shall bring the proposal before the Board of Governors. When an amendment has been adopted, the Bank shall so certify in an official communication addressed to all members. Amendments shall enter into force for all members three (3) months after the date of the official communication unless the Board of Governors specifies therein a different period.

ARTICLE 60. INTERPRETATION OR APPLICATION

1. Any question of interpretation or application of the provisions of this Agreement arising between any member and the Bank, or between two or more members of the Bank, shall be submitted to the Board of Directors for decision. If there is no Director of its nationality on that Board, a member particularly affected by the question under consideration shall be entitled to direct representation in the Board of Directors during such consideration; the representative of such member shall, however, have no vote. Such right of representation shall be regulated by the Board of Governors.

2. In any case where the Board of Directors has given a decision under paragraph 1 of this Article, any member may require that the question be referred to the Board of Governors, whose decision shall be final. Pending the decision of the Board of Governors, the Bank may, so far as it deems it necessary, act on the basis of the decision of the Board of Directors.

ARTICLE 61. ARBITRATION

If a disagreement should arise between the Bank and a country which has ceased to be a member, or between the Bank and any member, after adoption of a resolution to terminate the operations of the Bank, such disagreement shall be submitted to arbitration by a tribunal of three arbitrators. One of the arbitrators shall be appointed by the Bank, another by the country concerned, and the third, unless the parties otherwise agree, by the President of the International Court of Justice or such other authority as may have been prescribed by regulations adopted by the Board of Governors. A majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding upon the parties. The third arbitrator shall be empowered to settle all questions of procedure in any case where the parties are in disagreement with respect thereto.

ARTICLE 62. APPROVAL DEEMED GIVEN

Whenever the approval of any member is required before any act may be done by the Bank, approval shall be deemed to have been given unless the member presents an objection within such reasonable period as the Bank may fix in notifying the members of the proposed act.

Chapter X—Final Provisions

ARTICLE 63. SIGNATURE AND DEPOSIT

1. The original of this Agreement in a single copy in the English language shall remain open for signature at the United Nations Economic Commission for Asia and the Far East, in Bangkok, until 31 January 1966 by Governments of countries listed in Annex A to this Agreement. This document shall thereafter be deposited with the Secretary-General of the United Nations (hereinafter called the "Depository").

2. The Depository shall send certified copies of this Agreement to all the Signatories and other countries which become members of the Bank.

ARTICLE 64. RATIFICATION OR ACCEPTANCE

1. This Agreement shall be subject to ratification or acceptance by the Signatories. Instruments of ratification or acceptance shall be deposited with the Depository not later than 30 September 1966. The Depository shall duly notify the other Signatories of each deposit and the date thereof.

2. A Signatory whose instrument of ratification or acceptance is deposited before the date on which this Agreement enters into force, shall become a member of the Bank on that date. Any other

Signatory which complies with the provisions of the preceding paragraph, shall become a member of the Bank on the date on which its instrument of ratification or acceptance is deposited.

ARTICLE 65. ENTRY INTO FORCE

This Agreement shall enter into force when instruments of ratification or acceptance have been deposited by at least fifteen (15) Signatories (including not less than ten [10] regional countries) whose initial subscriptions, as set forth in Annex A to this Agreement, in the aggregate comprise not less than sixty-five (65) percent of the authorized capital stock of the Bank.

ARTICLE 66. COMMENCEMENT OF OPERATIONS

1. As soon as this Agreement enters into force, each member shall appoint a Governor, and the Executive Secretary of the United Nations Economic Commission for Asia and the Far East shall call the inaugural meeting of the Board of Governors.

2. At its inaugural meeting, the Board of Governors:

(i) shall make arrangements for the election of Directors of the Bank in accordance with paragraph 1 of Article 30 of this Agreement; and

(ii) shall make arrangements for the determination of the date on which the Bank shall commence its operations.

3. The Bank shall notify its members of the date of the commencement of its operations.

DONE at the City of Manila, Philippines, on 4 December 1965, in a single copy in the English language which shall be brought to the United Nations Economic Commission for Asia and the Far East, in Bangkok, and thereafter deposited with the Secretary-General of the United Nations, New York, in accordance with Article 63 of this Agreement.

ANNEX A

INITIAL SUBSCRIPTIONS TO THE AUTHORIZED CAPITAL STOCK FOR COUNTRIES WHICH MAY BECOME MEMBERS IN ACCORDANCE WITH ARTICLE 64

Part A. Regional Countries

I

Country	Amount of subscription (millions U.S. dollars)	Country	Amount of subscription (millions U.S. dollars)
1. Afghanistan	3.36	12. Nepal	2.16
2. Australia	85.00	13. New Zealand	22.56
3. Cambodia	3.00	14. Pakistan	32.00
4. Ceylon	8.52	15. Philippines	35.00
5. China, Republic of	16.00	16. Republic of Viet-Nam	7.00
6. India	93.00	17. Singapore	4.00
7. Iran	60.00	18. Thailand	20.00
8. Japan	200.00	19. Western Samoa	.06
9. Korea, Republic of	30.00		
10. Laos	.42	Total	642.08
11. Malaysia	20.00		

II

The following regional countries may become Signatories of this Agreement in accordance with Article 63, provided that at the time of signing, they shall respectively subscribe to the capital stock of the Bank in the following amounts:

Country	*Amount of subscription (millions U.S. dollars)*
1. Burma	7.74
2. Mongolia	.18
Total	7.92

Part B. Non-Regional Countries

Country	*Amount of subscription (millions U.S. dollars)*
1. Belgium	5.00
2. Canada	25.00
3. Denmark	5.00
4. Germany, Federal Republic of	30.00
5. Italy	10.00
6. Netherlands	11.00
7. United Kingdom	10.00
8. United States	200.00
Total	296.00

II

The following non-regional countries which participated in the meeting of the Preparatory Committee on the Asian Development Bank in Bangkok from 21 October to 1 November 1965 and which there indicated interest in membership in the Bank, may become Signatories of this Agreement in accordance with Article 63, provided that at the time of signing, each such country shall subscribe to the capital stock of the Bank in an amount which shall not be less than five million dollars ($5,000,000):

1. Austria 2. Finland 3. Norway 4. Sweden

III

On or before 31 January 1966, any of the non-regional countries listed in Part B(I) of this Annex may increase the amount of its subscription by so informing the Executive Secretary of the United Nations Economic Commission for Asia and the Far East in Bangkok, provided, however, that the total amount of the initial subscriptions of the non-regional countries listed in Part (B) (I) and (II) of this Annex shall not exceed the amount of three hundred and fifty million dollars ($350,000,000).

ANNEX B

ELECTION OF DIRECTORS

SECTION A. ELECTION OF DIRECTORS BY GOVERNORS REPRESENTING REGIONAL MEMBERS[4]

(1) Each Governor representing a regional member shall cast all votes of the member he represents for a single person.

(2) The seven (7) persons receiving the highest number of votes shall be Directors, except that no person who receives less than ten (10) percent of the total voting power of regional members shall be considered as elected.

(3) If seven (7) persons are not elected at the first ballot, a second ballot shall be held in which the person who received the lowest number of votes in the preceding ballot shall be ineligible and in which votes shall be cast only by:

(a) Governors who voted in the preceding ballot for a person who is not elected; and

(b) Governors whose votes for a person who is elected are deemed, in accordance with paragraph 4 of this Section, to have raised the votes cast for that person above eleven (11) percent of the total voting power of regional members.

(4)(a) In determining whether the votes cast by a Governor shall be deemed to have raised the total number of votes for any person above eleven (11) percent, the said eleven (11) percent shall be deemed to include, first, the votes of the Governor casting the highest number of votes for that person, and then, in diminishing order, the votes of each Governor casting the next highest number until eleven (11) percent is attained.

(b) Any Governor, part of whose votes must be counted in order to raise the votes cast for any person above (10) percent, shall be considered as casting all his votes for that person even if the total number of votes cast for that person thereby exceeds eleven (11) percent.

(5) If, after the second ballot, seven (7) persons are not elected, further ballots shall be held in conformity with the principles and procedures laid down in this Section, except that after six (6) persons are elected, the seventh may be elected—notwithstanding the provisions of paragraph (2) of this Section—by a simple majority of the remaining votes of regional members. All such remaining votes shall be deemed to have counted toward the election of the seventh Director.

(6) In case of an increase in the number of Directors to be elected by Governors representing regional members, the minimum and maximum percentages specified in paragraphs (2), (3), and (4) of Section A of this Annex shall be correspondingly adjusted by the Board of Governors.

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[4] On April 10, 1969, the Board of Governors changed the minimum and maximum percentages specified in paragraphs 2, 3 and 4 of section A to 8 percent and 10 percent.

SECTION B. ELECTION OF DIRECTORS BY GOVERNORS REPRESENTING NON-REGIONAL MEMBERS [5]

(1) Each Governor representing a non-regional member shall cast all votes of the member he represents for a single person.

(2) The three (3) persons receiving the highest number of votes shall be Directors, except that no person who receives less than twenty-five (25) percent of the total voting power of non-regional members shall be considered as elected.

(3) If three (3) persons are not elected at the first ballot, a second ballot shall be held in which the person who received the lowest number of votes in the preceding ballot shall be ineligible and in which votes shall be cast only by:

(a) Governors who voted in the preceding ballot for a person who is not elected; and

(b) Governors whose votes for a person who is elected are deemed, in accordance with paragraph (4) of this Section, to have raised the votes cast for that person above twenty-six (26) percent of the total voting power of non-regional members.

(4)(a) In determining whether the votes cast by a Governor shall be deemed to have raised the total number of votes for any person above twenty-six (26) percent, the said twenty-six (26) percent shall be deemed to include, first, the votes of the Governor casting the highest number of votes for that person, and then in diminishing order, the votes of each Governor casting the next highest number until twenty-six (26) percent is attained.

(b) Any Governor, part of whose votes must be counted in order to raise the votes cast for any person above twenty-six (26) percent, shall be considered as casting all his votes for that person even if the total number of votes cast for that person thereby exceeds twenty-six (26) percent.

(5) If, after the second ballot, three (3) persons are not elected, further ballots shall be held in conformity with the principles and procedures laid down in this Section, except that after two (2) persons are elected, a third may be elected—provided that subscriptions from non-regional members shall have reached a minimum total of $345 million, and notwithstanding the provisions of paragraph (2) of this Section—by a simple majority of the remaining votes. All such remaining votes shall be deemded to have counted toward the election of the third Director.

(6) In case of an increase in the number of directors to be elected by Governors representing non-regional members, the minimum and maximum percentages specified in paragraphs (2), (3) and (4) of Section B of this Annex shall be correspondingly adjusted by the Board of Governors.

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[5] On April 10, 1969, the Board of Governors changed the minimum and maximum percentages specified in paragraphs 2, 3 and 4 of section B to 16 percent and 19 percent. On February 19, 1971, the Board of Governors changed the minimum percentage from 16 percent to 17 percent.

8. Agreement Establishing the African Development Fund

CONTENTS

Page
Preface 585

Chapter I. Definitions:

Article 1 585

Chapter II. Purpose and Participation:

Article 2. Purpose 586
Article 3. Participation 586

Chapter III. Resources:

Article 4. Resources 586
Article 5. Subscriptions by the Bank 587
Article 6. Initial Subscriptions of State participants 587
Article 7. Additional Subscriptions of State participants 587
Article 8. Other Resources 588
Article 9. Payment of Subscriptions 588
Article 10. Limitation of Liability 589

Chapter IV. Currencies:

Article 11. Use of Currencies 589
Article 12. Valuation of Currencies 589
Article 13. Maintenance of Value of Currency Holdings 590

Chapter V. Operations:

Article 14. Use of Resources 590
Article 15. Conditions of Financing 590
Article 16. Form and Terms of Financing 592
Article 17. Review and Evaluation 592
Article 18. Co-operation with Other International Organizations, Other Institutions and States 593
Article 19. Technical Assistance 593
Article 20. Miscellaneous Operations 593
Article 21. Political Activity Prohibited 593

Chapter VI. Organization and Management:

Article 22. Organization of the Fund 593
Article 23. Board of Governors: Powers 593
Article 24. Board of Governors: Composition 594
Article 25. Board of Governors: Procedure 594
Article 26. Board of Directors: Functions 595
Article 27. Board of Directors: Composition 595
Article 28. Board of Directors: Procedure 596
Article 29. Voting 597
Article 30. The President 597
Article 31. Relationship to Bank 598
Article 32. Office of the Fund 598
Article 33. Depositories 598
Article 34. Channel of Communication 598
Article 35. Publication of Reports and Provision of Information 599
Article 36. Allocation of Net Income 599

Chapter VII. Withdrawals; Suspension of Participation; Termination of Operations:

Article 37. Withdrawal by Participants 599
Article 38. Suspension of Participation 599
Article 39. Rights and Duties of States Ceasing to be Participants 599
Article 40. Termination of Operations and Settlement of Obligations 601

Chapter VIII. Status; Immunities; Exemptions and Privileges:

Article 41. Purpose of Chapter 602
Article 42. Status 602
Article 43. Legal process 602

Page
Article 44. Immunity of Assets 602
Article 45. Immunity of Archives 603
Article 46. Freedom of Assets from Restriction 603
Article 47. Privilege for Communications 603
Article 48. Immunities and Privileges of Officials and Personnel 603
Article 49. Exemption from Taxation 603
Article 50. Waiver by the Fund 604
Chapter IX. Amendments:
Article 51 604
Chapter X. Interpretations and Arbitration:
Article 52. Interpretation 604
Article 53. Arbitration 605
Chapter XI. Final Provisions:
Article 54. Signature 605
Article 55. Ratification, Acceptance or Approval 605
Article 56. Entry into Force 606
Article 57. Participation 606
Article 58. Reservations 606
Article 59. Notification 606
Article 60. Inaugural Meeting 607
Schedule A. Original Participants and Initial Subscriptions 607
Schedule B. Designation and Selection of Directors 608

8. Agreement Establishing the African Development Fund[1]

Articles of agreement approved at Abidjan November 29, 1972; Signed for the United States of America November 18, 1976; Instrument of acceptance by the United States of America deposited November 18, 1976; Entered into force for the United States of America November 18, 1976

The States parties to this Agreement and the African Development Bank have agreed to establish hereby the African Development Fund which shall be governed by the following provisions:

CHAPTER I

Definitions

ARTICLE 1

(1) The following terms wherever used in this Agreement shall have the following meanings, unless the context shall otherwise specify or require:

"Fund" shall mean the African Development Bank established by this Agreement.

"Bank" shall mean the African Development Bank.

"member" shall mean a member of the Bank.

"participant" shall mean the Bank and any State which shall become a party to this Agreement.

"State participant" shall mean a participant other than the Bank.

"original participant" shall mean the Bank and each State participant which becomes a participant pursuant to Article 57(1).

"subscription" shall mean amounts subscribed by participants pursuant to Articles 5, 6 or 7.

"unit of account" shall mean a unit of account having a value of 0.81851265 gramme of fine gold.

"freely convertible currency" shall mean currency of a participant which the Fund determines, after consultation with the International Monetary Fund, is adequately convertible into other currencies for the purpose of the Fund's operations.

"President", "Board of Governors" and "Board of Directors" shall mean respectively the President, Board of Governors and Board of Directors of the Fund and in the case of the governors and directors shall include alternate governors and alternate directors when acting as governors and directors respectively.

"regional" shall mean located in the continent of Africa or the African islands.

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[1] 28 UST 4547; TIAS 8605.

(2) Reference to Chapters, Articles, paragraphs and Schedules shall mean the Chapters, Articles and paragraphs of, or Schedules to this Agreement.

(3) The headings of the Chapters and Articles are inserted for convenience of reference only and are not part of this Agreement.

CHAPTER II

Purpose and participation

ARTICLE 2. PURPOSE

The purpose of the Fund shall be to assist the Bank in making an increasingly effective contribution to the economic and social development of the Bank's members and to the promotion of co-operation (including regional and sub-regional co-operation) and increased international trade, particularly among such members. It shall provide finance on concessional terms for purposes which are of primary importance for and serve such development.

ARTICLE 3. PARTICIPATION

(1) The participants in the Fund shall be the Bank and those States which shall have become parties to this Agreement in accordance with its terms.

(2) The original State participants shall be those States listed in Schedule A which shall have become parties to this Agreement pursuant to Article 57(1).

(3) A State which is not an original participant may become a participant and a party to this Agreement upon such terms, not inconsistent with this Agreement, as the Board of Governors shall determine by a unanimous resolution adopted by the affirmative vote of the total voting power of the participants. Such participation shall be open only to those States which are members of the United Nations or any of its specialized agencies or are parties to the Statute of the International Court of Justice.

(4) A State may authorize an entity or agency acting on its behalf to sign this Agreement and to represent it in all matters relating to this Agreement with the exception of the matters referred to in Article 55.

CHAPTER III

Resources

ARTICLE 4. RESOURCES [2]

The resources of the Fund shall consist of:

(i) subscriptions by the Bank;
(ii) subscriptions by State participants;
(iii) other resources received by the Fund; and

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[2] The initial authorized capital resources of the Fund were $125.6 million. Following a special general increase of $36.9 million, the first replenishment of the Fund's resources, effective July 15, 1976, equaling $177 million brought the total resources to $339.6 million. A second replenishment in 1979 added an additional $780 million in Fund resources. A third replenishment in 1983 added an additional $1,146 million authorised capital.

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(iv) funds derived from operations or otherwise accruing to the Fund.

ARTICLE 5. SUBSCRIPTIONS BY THE BANK

The Bank shall pay to the Fund as its initial subscription the amount, expressed in units of account, set forth opposite its name in Schedule A, utilizing for that purpose the funds standing to the credit of the "African Development Fund" of the Bank. Payment shall be made on the same terms and conditions as are specified in Article 6(2) for the payment of the initial subscription of State participants. The Bank will thereafter subscribe such other amounts as the Board of Governors of the Bank may determine, on such terms and conditions as shall be agreed with the Fund.

ARTICLE 6. INITIAL SUBSCRIPTIONS OF STATE PARTICIPANTS

(1) Upon becoming a participant each State participant shall subscribe funds in the amount assigned to it. Such subscriptions are hereinafter referred to as initial subscriptions.

(2) The initial subscription assigned to each original State participant shall be in the amount set forth opposite its name in Schedule A, and shall be expressed in units of account and payable in freely convertible currency. Payment shall be made in three equal annual instalments as follows: the first such instalment shall be paid within thirty days after the Fund shall begin operations pursuant to Article 60 or on date on which the original State participant becomes a party to this Agreement, whichever is later; the second instalment within one year thereafter and the third instalment within one year after the payment or the due date of the second instalment, whichever is earlier. The Fund may request earlier payment or either or both of the second and third instalments if the operations of the Fund shall require it, but such earlier payment shall be entirely voluntary on the part of each participant.

(3) The initial subscriptions of State participants other than original participants shall also be expressed in units of account and payable in freely convertible currency. The amount and terms of payment of such subscription shall be determined by the Fund pursuant to Article 3(3).

(4) Except as the Fund may otherwise agree, each State participant shall maintain the free convertibility of its currency paid in by it pursuant to this Article.

(5) Notwithstanding the foregoing provisions of this Article, a State participant may defer for a period of not more than three months the making of any payment required by this Article when budgetary or other circumstances necessitate such delay.

ARTICLE 7. ADDITIONAL SUBSCRIPTIONS BY STATE PARTICIPANTS

(1) The Fund shall at such time as it deems appropriate in the light of the schedule of payments of the initial subscriptions of original participants and of its own operations, and at appropriate intervals thereafter, review the adequacy of its resources and, if it deems it desirable, may authorize a general increase in the subscriptions of State participants on such terms and conditions as the Fund shall determine. Notwithstanding the foregoing, the Fund

may authorize general or individual increases in such subscriptions at any time, provided that an individual increase shall be considered only at the request of the State participant involved.

(2) When any additional individual subscription is authorized pursuant to paragraph (1), each State participant shall be given an opportunity to subscribe, under no less favourable conditions, reasonably determined by the Fund, than those prescribed under paragraph (1), an amount which will enable it to maintain its relative voting power as among State participants.

(3) No State participant shall be obliged to subscribe additional amounts in the case of general or individual increases in subscriptions.

(4) All authorizations for, and determinations in respect of, general increases under paragraph (1) shall be by an eighty-five percent majority of the total voting power of the participants.

ARTICLE 8. OTHER RESOURCES

(1) Subject to the following provisions of this Article, the Fund may enter into arrangements to receive other resources, including grants and loans, from members, participants, States which are not participants and from any public or private entity or entities.

(2) Such arrangements shall be on terms and conditions which are consistent with the Fund's purposes, operations and policies and which will not impose an undue administrative or financial burden on the Fund or the Bank.

(3) Such arrangements, other than those for grants for technical assistance, shall be on terms which will permit the Fund to comply with the requirements of Article 15 (4) and (5).

(4) Such arrangements shall be approved by the Board of Directors, in the case of arrangements with a State which is not a member or a participant or with an agency of such State, by an eighty-five percent majority of the total voting power of the participants.

(5) The Fund shall not accept any loan (except temporary accommodations required for its operations) which is not on concessional terms and shall not borrow in any market or, as a borrower, guarantor, or otherwise, participate in the issue of securities in any market and shall not issue negotiable or transferable obligations evidencing indebtedness for loans received pursuant to paragraph (1).

ARTICLE 9. PAYMENT OF SUBSCRIPTIONS

The Fund shall accept any part of a participant's subscription payable by the participant under Article 5, 6 or 7 or under Article 13 and not needed by the Fund in its operations, in the form of notes, letters of credit or similar obligations issued by the participant or the depository, if any, designated by the participant pursuant to Article 33. Such notes or other obligations shall be non-negotiable, non-interest-bearing and payable at their par value on demand to the account of the Fund in the designated depository, or if there is none, as the Fund shall direct. Notwithstanding the issuance or acceptance of any such note, letter of credit or other obligation, the obligation of the participant under Articles 5, 6 and 7 and

Article 13 shall continue to subsist. Amounts held by the Fund in respect of subscriptions of participants which do not avail themselves of the provisions of this Article may be deposited or invested by the Fund to produce income to help defray its administrative and other expenses. The Fund shall draw down all subscriptions on a *pro rata* basis, as far as practicable over reasonable periods of time, to finance expenditures regardless of the form in which such subscriptions are made.

ARTICLE 10. LIMITATION OF LIABILITY

No participant shall be liable, by reason of its participation, for acts or obligations of the Fund.

CHAPTER IV

Currencies

ARTICLE 11. USE OF CURRENCIES

(1) Currencies received in payment of, or under Article 13 in respect of, subscriptions made pursuant to Article 5 and Article 6(2) may be used and exchanged by the Fund for any of its operations and, subject to the approval of the Board of Directors, for the temporary investment of funds not needed in its operations.

(2) The use of currencies received in payment of, or under Article 13 in respect of, subscriptions under Article 6(3) and Article 7 (1) and (2) or as other resources under Article 8 shall be governed by the terms and conditions pursuant to which such currencies are received or, in the case of currencies received under Article 13, the use shall be governed by the terms and conditions on which the currencies whose value is so maintained were received.

(3) All other currencies received by the Fund may be freely used and exchanged by the Fund for any of its operations and, subject to the approval of the Board of Directors, for the temporary investment of funds not needed in its operations.

(4) No restriction shall be imposed which is contrary to the provisions of this Article.

ARTICLE 12. VALUATION OF CURRENCIES

(1) Whenever it shall be necessary under this Agreement to determine the value of any currency in terms of another currency or currencies or of the unit of account, such valuation shall be reasonably made by the Fund after consultation with the International Monetary Fund.

(2) In the case of a currency which does not have a par value established with the International Monetary Fund, the value of such currency in terms of the unit of account shall be determined from time to time by the Fund pursuant to paragraph (1) of this Article and the value so determined shall be treated as if it were the par value of such currency for the purpose of this Agreement, including, without limitation, Article 13 (1) and (2).

ARTICLE 13. MAINTENANCE OF VALUE OF CURRENCY HOLDINGS

(1) Whenever the par value in the International Monetary Fund of the currency of a State participant is reduced in terms of the unit of account, or its foreign exchange value has, in the opinion of the Fund, depreciated to a significant extent within that participant's territory, that participant shall pay to the Fund within a reasonable time an amount of its currency required to maintain the value, as of the time of subscription, of the amount of such currency paid in to the Fund by that participant pursuant to Article 6 and pursuant to the provisions of the present paragraph, whether or not such currency is held in the form of notes, letters of credit or other obligations accepted pursuant to Article 9, provided that the foregoing shall apply only so long as and to the extent that such currency shall not have been initially disbursed or exchanged for another currency.

(2) Whenever the par value of the currency of a State participant is increased in terms of the unit of account or its foreign exchange value has, in the opinion of the Fund, appreciated to a significant extent within that participant's territory, the Fund shall return to that participant within a reasonable time an amount of such currency equal to the increase in the value of the amount of such currency to which the provisions of paragraph (1) are applicable.

(3) The Fund may waive or declare inoperative the provisions of this Article when a uniform change in the par value of the currencies of all State participants is made by the International Monetary Fund.

CHAPTER V

Operations

ARTICLE 14. USE OF RESOURCES

(1) The Fund shall provide financing for projects and programmes to further economic and social development in the territory of members. The Fund shall provide such financing for the benefit of those members whose economic situation and prospects require such financing to be on concessional terms.

(2) Financing provided by the Fund shall be for purposes which in the opinion of the Fund are of high development priority in the light of the needs of the area or areas concerned and shall, except in special circumstances, be for specific projects or groups of projects, particularly those forming part of a national or regional or sub-regional programme, including provisions of financing for national development banks or other suitable institutions for relending for specific projects approved by the Fund.

ARTICLE 15. CONDITIONS OF FINANCING

(1) The Fund shall not provide financing for any project in the territory of a member if that member objects thereto, except that it shall not be necessary for the Fund to assure itself that individual members do not object in the case of financing provided to a public international, regional or sub-regional organization.

(2) (*a*) The Fund shall not provide financing if, in its opinion, such financing is available from other sources on terms that the Fund considers as reasonable for the recipient.

(*b*) In making financing available for entities other than members, the Fund shall take all necessary steps to ensure that the concessional benefits of its financing accrue only to members or other entities which should, taking into account all the relevant circumstances, receive some or all of those benefits.

(3) Before financing is provided, the applicant shall have presented an adequate proposal through the President of the Bank and the President shall have presented to the Board of Directors of the Fund a written report recommending such financing, on the basis of a staff study of its merits.

(4) (*a*) The Fund shall impose no conditions that the proceeds of its financing shall be spent in the territories of any particular State participant or member, but such proceeds shall be used only for procurement in the territories of State participants or members, of goods produced in and services supplied from the territories of State participants or members, provided that, in the case of funds received pursuant to Article 8 from a State which is not a participant or member, the territories of that State shall also be eligible sources of procurement from such funds, and may be eligible sources of procurement from such other funds received under that Article as the Board of Directors shall determine.

(*b*) Procurement shall be on the basis of international competition among eligible suppliers except in cases where the Board of Directors determines that such international competition would not be justified.

(5) The Fund shall make arrangements to ensure that the proceeds of any financing are used only for the purposes for which the financing was provided, with due attention to considerations of economy, efficiency and competitive international trade and without regard to political or other non-economic influences or considerations.

(6) Funds to be provided under any financing operations shall be made available to the recipient only to meet expenses in connection with the project as they are actually incurred.

(7) The Fund shall be guided by sound development banking principles in its operations.

(8) The Fund shall not engage in refinancing operations.

(9) In making a loan, the Fund shall pay due regard to the prospects that the borrower and the guarantor, if any, will be able to meet their obligations.

(10) In considering an application for financing, the Fund shall pay due regard to the relevant self-help measures being taken by the recipient and, where the recipient is not a member, by both the recipient and the member or members whose territories the project or programme is intended to serve.

(11) The Fund shall adopt such measures as shall be required to ensure the effective application of this Article.

ARTICLE 16. FORM AND TERMS OF FINANCING

(1) Financing by the Fund from resources provided under Articles 5, 6 and 7, and from repayments of, and income arising from, such financing, shall take the form of loans. The Fund may provide other financing, including grants, out of resources received pursuant to arrangements under Article 8 expressly authorizing such financing.

(2) (*a*) Subject to the provisions of the foregoing paragraph, financing by the Fund shall be on such concessional terms as may be appropriate.

(*b*) Where the borrower is a member, or an inter-governmental body to which one or more members belong, the Fund shall, in establishing the terms of financing, take account primarily of the economic circumstances and prospects of the member or members for whose benefit the financing is being provided and, in addition, of the nature and requirements of the project or programme concerned.

(3) The Fund may provide financing for: (*a*) any member or any geographical or administrative subdivision or agency thereof: (*b*) any institution or undertaking in the territory of any member; and (*c*) any regional or sub-regional agency or institution concerned with development in the territories of members. All such financing shall, in the opinion of the Fund, be for the furtherance of the purposes of this Agreement. Where the borrower is not itself a member, the Fund shall require a suitable governmental or other guarantee or guarantees.

(4) The Fund may make foreign exchange available to meet local expenditure on a project when and to the extent which, in the opinion of the Fund, this is necessary or appropriate for the purposes of the loan, having regard to the economic position and prospects of the member or members for whose benefit the financing is being provided, and to the nature and requirements of the project.

(5) Loans shall be repayable in the currency or currencies loaned, or in such other freely convertible currency or currencies as the Fund shall determine.

(6) Before any financing is made available to or for the benefit of a member or for a project in the territory of a member, the Fund shall be satisfied that such member has taken all such administrative legislative measures in respect of its territory as are necessary to give effect to the provisions of Article II(4) and Chapter VIII as if the member were a State participant, and it shall be a term of such financing that such administrative and legislative measures shall be maintained, and that in the event of any dispute between the Fund and a member, and in the absence of any other provision therefor, the provisions of Article 53 shall have effect, as if the member were a State participant in the circumstances to which that Article applies.

ARTICLE 17. REVIEW AND EVALUATION

A comprehensive and continuing review of completed projects, programmes and activities financed by the Fund shall be carried out to aid the Board of Directors and the President in determining the effectiveness of the Fund in accomplishing its purposes. The

President, with the agreement of the Board of Directors, shall make arrangements for carrying out this review and its results shall be reported through the President to the Board of Directors.

ARTICLE 18. CO-OPERATION WITH OTHER INTERNATIONAL ORGANIZATIONS, OTHER INSTITUTIONS AND STATES

In furtherance of its purposes, the Fund shall seek to co-operate, and may enter into arrangements for co-operation, with other international organizations, regional and sub-regional organizations, other institutions and States, provided that no such arrangement shall be made with a State which is not a member or a participant or with an agency of such State unless it shall have been approved by an eighty-five percent majority of the total voting power of the participants.

ARTICLE 19. TECHNICAL ASSISTANCE

In furtherance of its purposes, the Fund may provide technical assistance, but such assistance will normally be on a reimbursable basis if it is not provided from special technical assistance grants or other means made available to the Fund for the purpose.

ARTICLE 20. MISCELLANEOUS OPERATIONS

In addition to the powers provided for elsewhere in this Agreement, the Fund may undertake such other activities incidental to its operations as shall be necessary or desirable in furtherance of its purposes and consistent with the provisions of this Agreement.

ARTICLE 21. POLITICAL ACTIVITY PROHIBITED

Neither the Fund, nor any officials or other persons acting on its behalf, shall interfere in the political affairs of any member; nor shall they be influenced in their decisions by the political character of the member or members concerned. Only considerations relevant to the economic and social development of members shall be relevant to such decisions, and these considerations shall be weighed impartially to achieve the purposes stated in this Agreement.

CHAPTER VI

Organization and management

ARTICLE 22. ORGANIZATION OF THE FUND

The Fund shall have a Board of Governors, a Board of Directors and a President. The Fund will utilize the officers, staff, organizations, services and facilities of the Bank to carry out its functions and, if the Board of Directors recognizes that there is need for additional personnel, will have such personnel who shall be engaged by the President pursuant to Article 30(4)(v).

ARTICLE 23. BOARD OF GOVERNORS: POWERS

(1) All the powers of the Fund shall be vested in the Board of Governors.

(2) The Board of Governors may delegate to the Board of Directors all its powers, except the power to:

(i) admit new participants and determine the terms of their admission;

(ii) authorize increases in subscriptions under Article 7 and determine the terms and conditions relating thereto;

(iii) suspend a participant;

(iv) decide appeals from decisions made by the Board of Directors concerning the interpretation or application of this Agreement;

(v) authorize the conclusion of general arrangements for cooperation with other international organizations, other than arrangements of a temporary or administrative character;

(vi) select external auditors to audit the accounts of the Fund and certify the balance sheet and statement of the income and expenditures of the Fund;

(vii) approve, after reviewing the report of the auditors; the balance sheet and the statement of the income and expenditures of the Fund;

(viii) amend this Agreement;

(ix) decide to terminate the operations of the Fund and distribute its assets; and

(x) exercise such other powers as are expressly assigned to the Board of Governors in this Agreement.

(3) The Board of Governors may at any time revoke the delegation of any matter to the Board of Directors.

ARTICLE 24. BOARD OF GOVERNORS: COMPOSITION

(1) The governors and alternate governors of the Bank shall be *ex officio* governors and alternate governors respectively of the Fund. The President of the Bank shall notify to the Fund as necessary the names of such governors and alternates.

(2) Each State participant which is not a member shall appoint one governor and one alternate governor who shall serve at the pleasure of the appointing participant.

(3) No alternate may vote except in the absence of his principal.

(4) Subject to the provisions of Article 60(4), governors and alternates shall serve as such without payment of remuneration or expenses by the Fund.

ARTICLE 25. BOARD OF GOVERNORS: PROCEDURE

(1) The Board of Governors shall hold an annual meeting and such other meetings as may be provided for by the Board or called by the Board of Directors. The Chairman of the Board of Governors of the Bank shall be *ex officio* Chairman of the Board of Governors of the Fund.

(2) The annual meeting of the Board of Governors shall be held in conjunction with the annual meeting of the Board of Governors of the Bank.

(3) A quorum for any meeting of the Board of Governors shall be a majority of the total number of governors, representing not less than three-fourths of the total voting power of the participants.

(4) The Board of Governors may by regulation establish a procedure whereby the Board of Directors may, when it deems such action advisable, obtain a vote of the governors on a specific question without calling a meeting of the Board of Governors.

(5) The Board of Governors, and the Board of Directors to the extent authorized by the Board of Governors, may establish such subsidiary committees as may be necessary or appropriate to conduct the business of the Fund.

(6) The Board of Governors, and the Board of Directors to the extent authorized by the Board of Governors or by this Agreement, may adopt such regulations, not inconsistent with this Agreement, as shall be necessary or appropriate for the conduct of the business of the Fund.

ARTICLE 26. BOARD OF DIRECTORS: FUNCTIONS

Without prejudice to the powers of the Board of Governors provided for in Article 23, the Board of Directors shall be responsible for the direction of the general operations of the Fund and for this purpose shall exercise any functions expressly given to it in this Agreement or delegated to it by the Board of Governors and, in particular, shall:

(i) prepare the work of the Board of Governors;

(ii) in conformity with the general directives of the Board of Governors, take decisions regarding individual loans and other forms of financing to be provided by the fund under this Agreement;

(iii) adopt such rules, regulations or other measures as may be required to ensure that proper and adequate audited accounts and records are kept in relation to the operations of the Fund;

(iv) ensure that the Fund is served in the most efficient and economical manner;

(v) submit to the Board of Governors, for approval at each annual meeting, the accounts for each financial year in a form which distinguishes, to the extent necessary, between the accounts of the general operations of the Fund and of such operations as are financed from contributions made available to the Fund under Article 8;

(vi) submit to the Board of Governors for approval at each annual meeting an annual report; and

(vii) approve the budget and general lending programme and policies of the Fund, in accordance with the resources respectively available for these purposes.

ARTICLE 27. BOARD OF DIRECTORS: COMPOSITION

(1) There shall be a Board of Directors composed of twelve directors.

(2) The State participants shall, pursuant to Schedule B, select six directors and six alternate directors.

(3) The Bank shall, pursuant to Schedule B, designate six directors and their alternates from the Board of Directors of the Bank.

(4) An alternate director of the Fund may attend all meetings of the Board of Directors but shall neither participate nor vote except in the absence of his principal.

(5) The Board of Directors shall invite the other directors of the Bank and their alternates to attend meetings of the Board of Directors as observers and any such Bank director or, in his absence, his alternate may participate in the discussion of any proposed project designed to benefit the country which he represents in the Board of Directors of the Bank.

(6) (*a*) A director designated by the Bank shall hold office until his successor shall have been designated pursuant to Schedule B and shall have assumed office. If a director designated by the Bank shall cease to be a director of the Bank he shall cease to be a director of the Fund.

(*b*) The term of office of directors selected by State participants shall be three years, but shall terminate whenever a general increase in subscriptions pursuant to Article 7(1) becomes effective. Such directors shall be eligible for a further term or terms of office. They shall continue in office until their successors have been selected and have assumed office. If the office of such a director shall become vacant before the expiration of his term of office, the vacancy shall be filled by a new director selected by the State participant or participants whose votes his predecessor was entitled to cast. Such successor director shall hold office for the remainder of the term of office of his predecessor.

(*c*) While the office of a director remains vacant the alternate of the former director shall exercise the powers of the latter except that of appointing an alternate, other than a temporary alternate to represent him at meetings when he cannot be present.

(7) If a State shall become a State participant pursuant to Article 3(3), or a State participant shall increase its subscription, or if for any other reason the voting rights of individual State participants should change between the times provided for the selection of directors representing State participants:

(i) There shall be no change in directors as a result thereof, provided that if a director shall cease to have any voting rights, his term of office and that of his alternate shall terminate forthwith;

(ii) Voting rights of State participants and of the directors selected by them shall be adjusted as of the effective date of the increase in subscription or the new subscription or other change in voting rights, as the case may be; and

(iii) If such a new State participant shall have voting rights, it may designate a director then representing one or more State participants to represent it and cast its votes until the next general selection of State participant directors.

(8) Directors and alternates shall serve as such without payment of remuneration or expenses by the Fund.

ARTICLE 28. BOARD OF DIRECTORS: PROCEDURE

(1) The Board of Directors shall meet as often as the business of the Fund may require. The Chairman shall call a meeting of the Board of Directors whenever requested to do so by four directors.

(2) A quorum for any meeting of the Board of Directors shall be a majority of the total number of directors having not less than three-fourths of the total voting power of the participants.

ARTICLE 29. VOTING

(1) The Bank, and the State participants as a group, shall each have 1,000 votes.

(2) Each governor of the Fund who is a governor of the Bank shall have, and shall be entitled to cast, such proportionate share of the Bank's votes as shall have been notified to the Fund by the President of the Bank.

(3) Each State participant shall have a proportionate share of the aggregate votes of the State participants based on the subscriptions of such participant made pursuant to Article 6 and, to the extent agreed by the State participants in connection with additional subscriptions authorized under Article 7 (1) and (2), on such additional subscriptions. In voting in the Board of Governors, each governor representing a State participant shall be entitled to cast the votes of the participant he represents.

(4) In voting in the Board of Directors, directors designated by the Bank shall together have 1,000 votes and directors selected by the State participants shall together have 1,000 votes. Each director designated by the Bank shall have the number of votes allocated to him by the Bank as set forth in the notification of his designation, given pursuant to Part I of Schedule B. Each director selected by one or more State participants shall have the number of votes held by the participant or participants which selected him.

(5) Each Bank director shall cast his votes as a unit. A director representing more than one State participant may cast separately the votes of the States he represents.

(6) Notwithstanding any of the other provisions of this Agreement:

(i) If a regional member shall be or become a State participant it shall not have or acquire any votes by reason of such participation and if a regional State participant becomes a member it shall cease as of the effective date of such membership to have any votes as a State participant; and

(ii) if a non-regional State shall be or become both a State participant and a member it shall, but solely for the purposes of this Agreement, be treated in all respects as if it were not a member.

(7) Except as otherwise provided in this Agreement, all matters before the Board of Governors or the Board of Directors shall be decided by a three-fourths majority of the total voting power of the participants.

ARTICLE 30. THE PRESIDENT

(1) The President of the Bank shall be *ex officio* President of the Fund. He shall be Chairman of the Board of Directors but shall have no vote. He may participate in meetings of the Board of Governors but shall not vote.

(2) The President shall be the legal representative of the Fund.

(3) In the event that the President of the Bank is absent or his office should become vacant, the person for the time being designated to perform the duties of President of the Bank shall act as President of the Fund.

(4) Subject to Article 26, the President shall conduct the ordinary business of the Fund and, in particular shall:

(i) propose the operating and administrative budgets;

(ii) propose the overall financing programme;

(iii) arrange for the study and appraisal of projects and programmes for financing by the Fund in accordance with Article 15(3);

(iv) draw, as needed, on the officers, staff, organization, services and facilities of the Bank to carry out the business of the Fund and shall be responsible to the Board of Directors for ensuring and controlling the proper organization, staffing and services provided under Article 22; and

(v) engage the services of such personnel, including consultants and experts, as may be needed by the Fund, and may terminate such services.

ARTICLE 31. RELATIONSHIP TO THE BANK

(1) The Fund shall reimburse the Bank for the fair value of its use of the officers, staff, organization, services and facilities of the Bank, in accordance with arrangements made between the Fund and the Bank.

(2) The Fund shall be an entity juridically separate and distinct from the Bank and assets of the Fund shall be kept separate and apart from those of the Bank.

(3) Nothing in this Agreement shall make the Fund liable for the acts or obligations of the Bank, or the Bank liable for the acts or obligations of the Fund.

ARTICLE 32. OFFICE OF THE FUND

The office of the Fund shall be the principal office of the Bank.

ARTICLE 33. DEPOSITORIES

Each State participant shall designate its central bank or such other institution as may be acceptable to the Fund as a depository in which the Fund may keep holdings of such participant's currency or other assets of the Fund. In the absence of any different designation, the depository for each member shall be the depository designated by it for the purposes of the Agreement establishing the Bank.

ARTICLE 34. CHANNEL OF COMMUNICATION

Each State participant shall designate an appropriate authority with which the Fund may communicate in connection with any matter arising under this Agreement. In the absence of any different designation, the channel of communication designated by a member for the Bank shall be its channel for the Fund.

ARTICLE 35. PUBLICATION OF REPORTS AND PROVISION OF INFORMATION

(1) The Fund shall publish an annual report containing an audited statement of its accounts and shall circulate to participants and members at appropriate intervals a summary statement of its financial position and an income and expenditures statement showing the results of its operations.

(2) The Fund may publish such other reports as it deems desirable to carry out its purposes.

(3) Copies of all reports, statements and publications made under this Article shall be distributed to participants and members.

ARTICLE 36. ALLOCATION OF NET INCOME

The Board of Governors shall determine from time to time the disposition of the Fund's net income, having due regard to provision for reserves and contingencies.

CHAPTER VII

Withdrawal; suspension of participation; termination of operations

ARTICLE 37. WITHDRAWAL BY PARTICIPANTS

Any participant may withdraw from participation in the Fund at any time by transmitting a notice in writing to the Fund at its principal office. Withdrawal shall become effective upon the date such notice is received or upon such date, not more than six months thereafter, as may be specified in such notice.

ARTICLE 38. SUSPENSION OF PARTICIPANT

(1) If a participant fails to fulfill any of its obligations to the Fund, the Fund may suspend its participation by decision of the Board of Governors.

The participant so suspended shall automatically cease to be a participant one year from the date of its suspension unless a decision is taken by the Board of Governors to restore the participant to good standing.

(2) While under suspension, a participant shall not be entitled to exercise any rights under this Agreement except the right of withdrawal, but shall remain subject to all obligations.

ARTICLE 39. RIGHTS AND DUTIES OF STATES CEASING TO BE PARTICIPANTS

(1) When a State ceases to be a participant, it shall have no rights under this Agreement except as provided in this Article and in Article 53 but it shall, except as in this Article otherwise provided, remain liable for all financial obligations undertaken by it to the Fund, whether as a participant, borrower, guarantor or otherwise.

(2) When a State ceases to be a participant, the Fund and the State shall proceed to a settlement of accounts. As part of such settlement of accounts, the Fund and the State may agree on the amounts to be paid to the State on account of its subscription and on the time and currencies of payment. The term "subscription" when used in relation to any participant shall for the purposes of

this Article and Article 40 be deemed to include both the initial subscription and any addition subscription of such participant.

(3) Pending such agreement, and in any event if no such agreement is reached within six months from the date when the Senate ceased to be a participant or such other time as may be agreed upon by the Fund and the State, the following provisions shall apply:

(i) The State shall be relieved of any further liability to the Fund on account of its subscription, except that the State shall pay to the Fund on their due dates amounts of its subscription unpaid on the date when the State ceased to be a participant and which in the opinion of the Fund are needed by it to meet its commitments as of that date under its financing operations.

(ii) The Fund shall return to the State funds paid in by the State on account of its subscription or derived therefrom as principal repayments and held by the Fund on the date when the State ceased to be a participant, except to the extent that in the opinion of the Fund such funds will be needed by it to meet its commitments as of that date under its financing operations.

(iii) The Fund shall pay to the State a *pro rata* share of all principal repayments received by the Fund after the date on which the State ceases to be a participant on loans contracted prior thereto, except those made out of resources provided to the Fund under arrangements specifying special liquidation rights. Such share shall be such proportion of the total principal amount of such loans as the total amount paid by the State on account of its subscription and not returned to it pursuant to sub-paragraph (ii) above shall bear to the total amount paid by all participants on account of their subscriptions which shall have been used or in the opinion of the Fund will be needed by it to meet its commitments under its financing operations as of the date on which the State ceases to be a participant. Such payment by the Fund shall be made in installments when and as such principal repayments are received by the Fund, but not more frequently than annually. Such installments shall be paid in the currencies received by the Fund except that the Fund may in its discretion make payment in the currency of the State concerned.

(iv) Any amount due to the State on account of its subscription may be withheld so long as that State, or any sub-division or any agency of any of the foregoing remains liable, as borrower or guarantor, to the Fund, and such amount may at the option of the Fund, be applied against any such liability as it matures.

(v) In no event shall the State receive under this paragraph an amount exceeding, in the aggregate, the lesser of the two following:

(1) the amount paid by the State on account of its subscription, or

(2) such proportion of the net assets of the Fund, as shown on the books of the Fund as of the date on which the State ceased to be a participant, as the amount of its

subscription shall bear to the aggregate amount of the subscriptions of all participants.

(vi) All calculations required hereunder shall be made on such basis as shall be reasonably determined by the Fund.

(4) In no event shall any amount due to a State under this Article be paid until six months after the date upon which the State ceases to be a participant. If within six months of the date upon which any State ceases to be a participant the Fund terminates its operations under Article 40, all rights of such State shall be determined by the provisions of such Article 40, and such State shall be considered a participant in the Fund for purposes of such Article 40, except that it shall have no voting rights.

ARTICLE 40. TERMINATION OF OPERATIONS AND SETTLEMENT OF OBLIGATIONS

(1) The Fund may terminate its operations by vote of the Board of Governors. Withdrawal by the Bank or all the State participants pursuant to Article 37 shall constitute a termination of operations by the Fund. After such termination of operations the Fund shall forthwith cease all activities, except those incidental to the orderly realization, conservation and preservation of its assets and settlement of its obligations. Until final settlement of such obligations and distribution of such assets, the Fund shall remain in existence and all mutual rights and obligations of the Fund and the participants under this Agreement shall continue unimpaired, except that no participant shall be suspended or shall withdraw and that no distribution shall be made to participants except as in this Article provided.

(2) No distribution shall be made to participants on account of their subscriptions until all liabilities to creditors shall have been discharged or provided for and until the Board of Governors shall have decided to make such distribution.

(3) Subject to the foregoing and to any special arrangements for the disposition of resources agreed upon in connection with the provision of such resources to the Fund, the Fund shall distribute its assets to participants *pro rata* in proportion to amounts paid in by them on account of their subscriptions. Any distribution pursuant to the foregoing provision of this paragraph shall be subject, in the case of any participant, to prior settlement of all outstanding claims by the Fund against such participant. Such distribution shall be made at such times, in such currencies, and in cash or other assets as the Fund shall deem fair and equitable. Distribution to the several participants need not be uniform in respect of the type of assets distributed or of the currencies in which they are expressed.

(4) Any participant receiving assets distributed by the Fund pursuant to this Article or Article 39 shall enjoy the same rights with respect to such assets as the Fund enjoyed prior to their distribution.

CHAPTER VIII

Status; immunities; exemptions and privileges

ARTICLE 41. PURPOSE OF CHAPTER

To enable the Fund effectively to fulfill its purpose and carry out the functions entrusted to it, the status, immunities, exemptions and privileges set forth in this Chapter shall be accorded to the Fund in the territory of each State participant, and each State participant shall inform the Fund of the specific action which it has taken for such purpose.

ARTICLE 42. STATUS

The Fund shall possess full juridical personality and, in particular, full capacity:

(i) to contract;

(ii) to acquire, and dispose of, immovable and movable property; and

(iii) to institute legal proceedings.

ARTICLE 43. LEGAL PROCESS

(1) The Fund shall enjoy immunity from every form of legal process, except in cases arising out of or in connection with the exercise of its powers to receive loans in accordance with Article 8, in which case actions may be brought against the Fund in a court of competent jurisdiction in the territory of a country in which the Fund has its office, or has appointed an agent for the purpose of accepting service or notice of process, or has otherwise agreed to be sued.

(2) Notwithstanding the provisions of paragraph (1), no action shall be brought against the Fund by any participant, or by any agency or instrumentality of a participant, or by any entity or person directly or indirectly acting for or deriving claims from a participant or from any agency or instrumentality of a participant. Participants shall have recourse to such special procedures for the settlement of disputes between the Fund and its participants as may be prescribed in this Agreement, in the by-laws and regulations of the Fund, or in contracts entered into with the Fund.

(3) The Fund shall also make provisions for appropriate modes of settlement of disputes in cases which do not come within the provisions of paragraph (2) and of Articles 52 and 53 and which are subject to the immunity of the Fund by virute of paragraph (1) of this Article.

(4) Where by virtue of any of the provisions of this Agreement the Fund does not enjoy immunity from legal process, the Fund, and its property and assets wherever located and by whomsoever held, shall nevertheless be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Fund.

ARTICLE 44. IMMUNITY OF ASSETS

Property and assets of the Fund, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

ARTICLE 45. IMMUNITY OF ARCHIVES

The archives of the Fund, and, in general, all documents belonging to it, or held by it, shall be inviolable, wherever located.

ARTICLE 46. FREEDOM OF ASSETS FROM RESTRICTION

To the extent necessary to carry out the purpose and functions of the Fund, and subject to the provisions of this Agreement, all property and other assets of the Fund shall be free from restriction by financial controls, regulations, or moratoria of any kind.

ARTICLE 47. PRIVILEGE FOR COMMUNICATIONS

Official communications of the Fund shall be accorded by each State participant the same treatment as it accords to the official communications of other international financial institutions of which it is a member.

ARTICLE 48. IMMUNITIES AND PRIVILEGES OF OFFICIALS AND PERSONNEL

All governors and directors, and their alternates, the President and personnel, including experts performing missions for the Fund:

(i) Shall be immune from legal process with respect to acts performed by them in their official capacity;

(ii) When they are not local nationals, shall be accorded no less favourable immunities from immigration restrictions, alien registration requirements and national service obligations, and no less favourable facilities as regards exchange regulations than are accorded by the State participant concerned to the representatives, officials and employees of comparable rank of any other international financial institution of which it is a member; and

(iii) Shall be granted no less favourable treatment in respect of traveling facilities than is accorded by the State participant concerned to representatives, officials and employees of comparable rank of any other international financial institution of which it is a member.

ARTICLE 49. EXEMPTION FROM TAXATION

(1) The Fund, its assets, property, income, operation and transactions shall be exempt from all direct taxation, and from all customs duties, or taxes having equivalent effect, on goods imported or exported for its official use. The Fund shall also be exempt from any obligation for the payment, withholding or collection of any tax or duty.

(2) Notwithstanding the provisions of paragraph (1), the Fund shall not claim exemption from taxes which are no more than charges for services rendered.

(3) Articles imported under an exemption provided for by paragraph (1) shall not be sold in the territory of the State participant which granted the exemption except under conditions agreed with that participant.

(4) No tax shall be levied on or in respect of salaries and emoluments paid by the Fund to the President and personnel including experts performing missions for it.

ARTICLE 50. WAIVER BY THE FUND

(1) The immunities, exemptions and privileges provided in this Chapter are granted in the interests of the Fund. The Board of Directors may waive, to such extent and upon such conditions, as it may determine, the immunities, exemptions and privileges provided in this Chapter in cases where its action would in its opinion further the interests of the Fund.

(2) Regardless of the provisions of paragraph (1), the President shall have the right and the duty to waive the immunity of any of the personnel, including experts performing missions for the fund, in cases where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Fund.

CHAPTER IX

Amendments

ARTICLE 51

(1) Any proposal to introduce modifications to this Agreement, whether emanating from a participant, a governor or the Board of Directors, shall be communicated to the Chairman of the Board of Governors, who shall bring the proposal before that Board. If the proposed amendment is approved by the Board, the Fund shall, by circular letter or telegram, ask the participants whether they accept the proposed amendment. When three-fourths of the participants having eighty-five percent of the voting power have accepted the proposed amendment, the Fund shall certify the fact by formal communication addressed to the participants. Amendments shall enter into force for all participants three months after the date of the formal communication provided for in this paragraph unless the Board of Governors specifies a different period or date.

(2) Notwithstanding the provisions of paragraph (1), the unanimous approval of the Board of Governors shall be required for the approval of any amendment modifying:

(i) the limitation on liability provided for in Article 10;

(ii) the provisions of Article 7 (2) and (3) relating to the subscription of additional funds;

(iii) the right to withdraw from the Fund; and

(iv) the voting majority requirements contained in the Agreement.

CHAPTER X

Interpretation and arbitration

ARTICLE 52. INTERPRETATION

(1) Any question of interpretation or application of the provisions of this Agreement arising between any participant and the Fund or between any participants shall be submitted to the Board of Direc-

tors for decision. If there is no director of its nationality on that Board, a State participant particularly affected by the question under consideration shall be entitled to direct representation in such cases. Such right of representation shall be regulated by the Board of Governors.

(2) In any case where the Board of Directors has given a decision under paragraph (1), any participant may require that the question be referred to the Board of Governors, whose decision shall be final. Pending the decision of the Board of Governors, the Fund may, so far as it deems necessary, act on the basis on the decision of the Board of Directors.

ARTICLE 53. ARBITRATION

In the case of a dispute between the Fund and a State which has ceased to be a participant, or between the Fund and any participant upon the termination of the operations of the Fund, such dispute shall be submitted to arbitration by a tribunal of three arbitrators. One of the arbitrators shall be appointed by the Fund, another by the participant or former participant concerned, and the two parties shall appoint the third arbitrator, who shall be the Chairman. If within forty-five days of receipt of the request for arbitration either party has not appointed an arbitrator or if within thirty days of the appointment of two arbitrators the third arbitrator has not been appointed, either party may request the President of the International Court of Justice, or such other authority as may have been prescribed by regulations adopted by the Board of Governors, to appoint an arbitrator. The procedure of the arbitration shall be fixed by the arbitrators, but the third arbitrator shall have full power to settle all questions of procedure in any case of disagreement with respect thereto. A majority vote of the arbitrators shall be sufficient to reach a decision, which shall be final and binding upon the parties.

CHAPTER XI

Final provisions

ARTICLE 54. SIGNATURE

The original of this Agreement shall remain open until 31 March 1973 for signature by the Bank and by the States whose names are set forth in Schedule A.

ARTICLE 55. RATIFICATION, ACCEPTANCE OR APPROVAL

(1) This Agreement shall be subject to ratification, acceptance or approval by the signatories.

(2) Instruments of ratification, acceptance or approval shall be deposited with the Bank at its principal office by each signatory before 31 December 1973, provided that, if this Agreement shall not have entered into force by that date in accordance with Article 56, the Board of Directors of the Bank may extend the period for deposit of instruments of ratification, acceptance or approval by not more than six months.

ARTICLE 56. ENTRY INTO FORCE

This Agreement shall enter into force on the date on which the Bank and eight signatory States whose initial subscriptions, as set forth in Schedule A to this Agreement, comprise in aggregate not less than 55 million units of account, have deposited their instruments of ratification, acceptance or approval.

ARTICLE 57. PARTICIPATION

(1) A signatory whose instrument of ratification, acceptance or approval is deposited on or before the date on which this Agreement enters into force shall become a participant on that date. A signatory whose instrument of ratification, acceptance or approval is deposited thereafter and before the date prescribed in or pursuant to Article 55(2) shall become a participant on the date of such deposit.

(2) A State which is not an original participant may become a participant pursuant to Article 3(3), and, notwithstanding the provisions of Articles 54 and 55, such participation shall be effected by signing this Agreement and by depositing with the Bank an instrument of ratification, acceptance or approval, which shall take effect on the date of such deposit.

ARTICLE 58. RESERVATIONS

A State may, when depositing its instrument of ratification, acceptance or approval, declare:

(i) that in its territory the immunity conferred by Article 43(1) and by Article 48(i) shall not apply in relation to a civil action arising out of an accident caused by a motor vehicle belonging to the Fund or operated on its behalf, or to a traffic offense committed by the driver of such a vehicle;

(ii) that it retains for itself and its political sub-divisions the right to tax salaries and emoluments paid by the Fund to that State's citizens, nationals or residents;

(iii) that it understands that the Fund will not normally claim exemption from excise duties levied by that State on goods originating in its territory, and from taxes on the sale of movable and immovable property, which form part of the price to be paid, but that where the Fund is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, whenever possible, appropriate administrative arrangements will be made by that State for the remission or return of the amount of duty or tax; and

(iv) that the provisions of Article 49(3) shall apply to articles in respect of which a remission or return of duty or tax has been made by that State pursuant to the arrangements referred to in subparagraph (iii).

ARTICLE 59. NOTIFICATION

The Bank shall notify all signatories of:

(*a*) any signature;

(*b*) any deposit of an instrument of ratification, acceptance or approval;

(*c*) the date of entry into force of this Agreement; and

(*d*) any declarations or reservations made at the time of deposit of an instrument of ratification, acceptance or approval.

ARTICLE 60. INAUGURAL MEETING

(1) As soon as this Agreement enters into force, each State participant shall appoint a governor, and the Chairman of the Board of Governors shall call the inaugural meeting of the Board of Governors.

(2) At the inaugural meeting:

(i) twelve directors of the Fund shall be designated and selected pursuant to Article 27 (2) and (3); and

(ii) arrangements shall be made for determining the date on which the Fund shall commence operations.

(3) The Fund shall notify all participants of the date of commencement of its operations.

(4) Reasonable and necessary expenses incurred by the Bank in establishing the Fund, including subsistence expenses of governors and their alternates in attending the Inaugural Meeting, shall be reimbursed by the Fund.

IN WITNESS WHEREOF the undersigned, being thereunto duly authorized, have signed this Agreement.

DONE at Abidjan, this twenty-ninth day of November, one thousand nine hundred and seventy-two, in the English and French languages, both being equally authentic, in a single copy, which shall remain deposited with the Bank.

The Bank shall transmit certified copies of this Agreement to each signatory.

SCHEDULE A

1. ORIGINAL PARTICIPANTS

The following States shall be eligible to become original participants: Belgium, Brazil, Canada, Denmark, Finland, Federal Republic of Germany, Italy, Japan, The Netherlands, Norway, Spain, Sweden, Switzerland, The United Kingdom, The United States of America and Yugoslavia.

Any of the aforementioned States which, after 31 December 1973, makes a subscription of at least 15 million United States dollars shall, nevertheless, be deemed an original participant provided it signs and ratifies this Agreement on or before 31 December 1974.

2. INITIAL SUBSCRIPTIONS

The Bank and the following States which have signed this Agreement have subscribed the following amounts:

Subscriptions in	*Units of Account*
African Development Bank	5,000,000
Belgium	3,000,000
Brazil	2,000,000
Canada	15,000,000
Denmark	5,000,000
Federal Republic of Germany	7,447,630
Finland	2,000,000
Italy	10,000,000
Japan	15,000,000
Netherlands	4,000,000
Norway	5,000,000
Spain	2,000,000
Sweden	5,000,000
Swiss Confederation	3,000,000
United Kingdom	5,211,420
Yugoslavia	2,000,000
Total	90,659,050

SCHEDULE B

DESIGNATION AND SELECTION OF DIRECTORS

Part I

(1) The President of the Bank shall give to the Fund, on the occasion of each designation by the Bank of directors of the Fund, a notification setting forth:

(i) the names of the directors so designated; and

(ii) the number of votes which each such director shall be entitled to cast.

(2) When there shall be a vacancy in the office of a director designated by the Bank, the President shall notify to the Fund the name of the person designated by the Bank as his successor.

Part II

Selection of Directors by Governors Representing State Participants

(1) In balloting for the selection of directors, each governor representing a State participant shall cast for one person all of the votes to which the State appointing him is entitled. The six persons receiving the greatest number of votes shall be directors, except that no person who receives less than 12 percent of the total of the votes of such governors shall be considered elected.

(2) When six persons are not elected on the first ballot, a second ballot shall be held in which the person who received the lowest number of votes shall be ineligible for election and in which there shall vote only *(a)* those governors who voted in the first ballot for a person not elected and *(b)* those governors whose votes for a person elected are deemed under (3) below to have raised the votes cast for that person above 15 percent of the eligible votes.

(3) In determining whether the votes cast by a governor are to be deemed to have raised the total of any person above 15 percent of the eligible votes, the 15 percent shall be deemed to include, first, the votes of the governor casting the largest number of votes for such person, then the votes of the governor casting the next largest number, and so on until 15 percent is reached.

(4) Any governor, part of whose votes must be counted in order to raise the total of any person above 12 percent, shall be considered as casting all of his votes for such person even if the total votes for such person thereby exceeded 15 percent.

(5) If, after the second ballot, six persons have not been elected, further ballots shall be held on the same principles until six persons have been elected, provided that after five persons are elected, the sixth may be elected by a simple majority of the remaining votes and shall be deemed to have been elected by all such votes.

(6) The Governors representing State participants may change the foregoing rules by a 75 percent majority of the total voting power of such governors.

(7) There shall be a new selection of directors representing State participants at each of the first three annual meetings of the Board of Governors.

(8) Each director shall appoint an alternate who shall have full power to act for him when he is not present. Directors and their alternates shall be nationals of State participants.

9. Settlement of Investment Disputes

a. Convention on the Settlement of Investment Disputes Between States and Nationals of Other States[1]

Convention approved March 18, 1965, by the Executive Directors of the International Bank for Reconstruction and Development (IBRD), at Washington, for submission to member governments; Open for signature at IBRD, and signed in behalf of the United States of America August 27, 1965; Ratification advised by the Senate of the United States of America May 16, 1966; Ratified by the President of the United States of America June 1, 1966; Instrument of ratification of the United States of America deposited with IBRD June 10, 1966; Proclaimed by the President of the United States of America September 30, 1966; Entered into force October 14, 1966

PREAMBLE

The Contracting States

Considering, The need for international cooperation for economic development, and the role of private international investment therein;

Bearing in mind, The possibility that from time to time disputes may arise in connection with such investment between Contracting States and nationals of other Contracting States;

Recognizing, That while such disputes would usually be subjected to national legal processes, international methods of settlement may be appropriate in certain cases;

Attaching particular importance, To the availability of facilities for international conciliation or arbitration to which Contracting States and nationals of other Contracting States may submit such disputes if they so desire;

Desiring, To establish such facilities under the auspices of the International Bank for Reconstruction and Development;

Recognizing, That mutual consent by the parties to submit such disputes to conciliation or to arbitration through such facilities constitutes a binding agreement which requires in particular that due consideration be given to any recommendation or conciliators, and that any arbitral award be complied with; and

Declaring, That no Contracting State shall be the mere fact of its ratification, acceptance or approval of this Convention and without its consent be deemed to be under any obligation to submit any particular dispute to conciliation or arbitration,

Have agreed as follows:

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[1] 17 UST 1270; TIAS 6090; 575 UNTS 159. For a list of states which are parties, see Department of State publication, *Treaties in Force*.

CHAPTER I

International Centre for Settlement of Investment Disputes

SECTION 1

Establishment and Organization

Article 1

(1) There is hereby established the International Centre for Settlement of Investment Disputes (hereinafter called the Centre).

(2) The purpose of the Centre shall be to provide facilities for conciliation and arbitration of investment disputes between Contracting States and nationals of other Contracting States in accordance with the provisions of this Convention.

Article 2

The seat of the Centre shall be at the principal office of the International Bank for Reconstruction and Development (hereinafter called the Bank). The seat may be moved to another place by decision of the Administrative Council adopted by a majority of two-thirds of its members.

Article 3

The Centre shall have an Administrative Council and a Secretariat and shall maintain a Panel of Conciliators and a Panel of Arbitrators.

SECTION 2

The Administrative Council

Article 4

(1) The Administrative Council shall be composed of one representative of each Contracting State. An alternate may act as representative in case of his principal's absence from a meeting or inability to act.

(2) In the absence of a contrary designation, each governor and alternate governor of the Bank appointed by a Contracting State shall be *ex officio* its representative and its alternate respectively.

Article 5

The president of the Bank shall be *ex officio* Chairman of the Administrative Council (hereinafter called the Chairman) but shall have no vote. During his absence or inability to act and during any vacancy in the office of President of the Bank, the person for the time being acting as President shall act as Chairman of the Administrative Council.

Article 6

(1) Without prejudice to the powers and functions vested in it by other provisions of this Convention, the Administrative Council shall:

(a) adopt the administrative and financial regulations of the Centre;

(b) adopt the rules of procedure for the institution of conciliation and arbitration proceedings;

(c) adopt the rules of procedure for conciliation and arbitration proceedings (hereinafter called the Conciliation Rules and the Arbitration Rules);

(d) approve arrangements with the Bank for the use of the Bank's administrative facilities and services;

(e) determine the conditions of service of the Secretary-General and of any Deputy Secretary-General;

(f) adopt the annual budget of revenues and expenditures of the Centre;

(g) approve the annual report on the operation of the Centre.

The decisions referred to in sub-paragrahs (a), (b), (c) and (f) above shall be adopted by a majority of two-thirds of the members of the Administrative Council.

(2) The Administrative Council may appoint such committees as it considers necessary.

(3) The Administrative Council shall also exercise such other powers and perform such other functions as it shall determine to be necessary for the implementation of the provisions of this Convention.

Article 7

(1) The Administrative Council shall hold an annual meeting and such other meetings as may be determined by the Council, or convened by the Chairman, or convened by the Secretary-General at the request of not less than five members of the Council.

(2) Each member of the Administrative Council shall have one vote and, except as otherwise herein provided, all matters before the Council shall be decided by a majority of the votes cast.

(3) A quorum for any meeting of the Administrative Council shall be a majority of its members.

(4) The Administrative Council may establish, by a majority of two-thirds of its members, a procedure whereby the Chairman may seek a vote of the Council without convening a meeting of the Council. The vote shall be considered valid only if the majority of the members of the Council cast their votes within the time limit fixed by the said procedure.

Article 8

Members of the Administrative Council and the Chairman shall serve without remuneration from the Centre.

SECTION 3

The Secretariat

Article 9

The Secretariat shall consist of a Secretary-General, one or more Deputy Secretaries-General and staff.

Article 10

(1) The Secretary-General and any Deputy Secretary-General shall be elected by the Administrative Council by a majority of

two-thirds of its members upon the nomination of the Chairman for a term of service not exceeding six years and shall be eligible for re-election. After consulting the members of the Administration Council, the Chairman shall propose one or more candidates for each such office.

(2) The offices of Secretary-General and Deputy Secretary-General shall be incompatible with the exercise of any political function. Neither the Secretary-General nor any Deputy Secretary-General may hold any other employment or engage in any other occupation except with the approval of the Administrative Council.

(3) During the Secretary-General's absence or inability to act, and during any vacancy of the office of Secretary-General, the Deputy Secretary-General shall act as Secretary-General. If there shall be more than one Deputy Secretary-General, the Administrative Council shall determine in advance the order in which they shall act as Secretary-General.

Article 11

The Secretary-General shall be the legal representative and the principal officer of the Centre and shall be responsible for its administration, including the appointment of staff, in accordance with the provisions of this Convention and the rules adopted by the Administrative Council. He shall perform the function of registrar and shall have the power to authenticate arbitral awards rendered pursuant to this Convention, and to certify copies thereof.

SECTION 4

The Panels

Article 12

The Panel of Conciliators and the Panel of Arbitrators shall each consist of qualified persons, designated as hereinafter provided, who are willing to serve thereon.

Article 13

(1) Each Contracting State may designate to each Panel four persons who may but need not be its nationals.

(2) The Chairman may designate ten persons to each Panel. The persons so designated to a Panel shall each have a different nationality.

Article 14

(1) Persons designated to serve on the Panels shall be persons of high moral character and recognized competence in the fields of law, commerce, industry or finance, who may be relied upon to exercise independent judgment. Competence in the field of law shall be of particular importance in the case of persons on the Panel of Arbitrators.

(2) The Chairman, in designating persons to serve on the Panels, shall in addition pay due regard to the importance of assuring representation on the Panels of the principal legal systems of the world and of the main forms of economic activity.

Article 15

(1) Panel members shall serve for renewable periods of six years.

(2) In case of death or resignation of a member of a Panel, the authority which designated the member shall have the right to designate another person to serve for the remainder of that member's term.

(3) Panel members shall continue in office until their successors have been designated.

Article 16

(1) A person may serve on both Panels.

(2) If a person shall have been designated to serve on the same Panel by more than one Contracting State, or by one or more Contracting States and the Chairman, he shall be deemed to have been designated by the authority which first designated him or, if one such authority is the State of which he is a national, by that State.

(3) All designations shall be notified to the Secretary-General and shall take effect from the date on which the notification is received.

SECTION 5

Financing the Centre

Article 17

If the expenditure of the Centre cannot be met out of charges for the use of its facilities, or out of other receipts, the excess shall be borne by Contracting States which are members of the Bank in proportion to their respective subscriptions to the capital stock of the Bank, and by Contracting States which are not members of the Bank in accordance with rules adopted by the Administrative Council.

SECTION 6

Status, Immunities, and Privileges

Article 18

The Centre shall have full international legal personality. The legal capacity of the Centre shall include the capacity.

(a) to contract;

(b) to acquire and dispose of movable and immovable property;

(c) to institute legal proceedings.

Article 19

To enable the Centre to fulfill its functions, it shall enjoy in the territories of each Contracting State the immunities and privileges set forth in this Section.

Article 20

The Centre, its property and assets shall enjoy immunity from all legal process, except when the Centre waives this immunity.

Article 21

The Chairman, the members of the Administrative Council, persons acting as conciliators or arbitrators or members of a Committee appointed pursuant to paragraph (3) of Article 52, and the officers and employees of the Secretariat,

(a) shall enjoy immunity from legal process with respect to acts performed by them in the exercise of their functions, except when the Centre waives this immunity;

(b) not being local nationals, shall enjoy the same immunities from immigration restrictions, alien registration requirements and national service obligations, the same facilities as regards exchange restrictions and the same treatment in respect of traveling facilities as are accorded by Contracting States to the representatives, officials and employees of comparable rank of other Contracting States.

Article 22

The provisions of Article 21 shall apply to persons appearing in proceedings under this Convention as parties, agents, counsel, advocates, witnesses or experts; provided, however, that sub-paragraph (b) thereof shall apply only in connection with their travel to and from, and their stay at, the place where the proceedings are held.

Article 23

(1) The archives of the Centre shall be inviolable, wherever they may be.

(2) With regard to its official communications, the Centre shall be accorded by each Contracting State treatment not less favourable than that accorded to other international organizations.

Article 24

(1) The Centre, its assets, property and income, and its operations and transactions authorized by this Convention shall be exempt from all taxation and customs duties. The Centre shall also be exempt from liability for the collection of payment of any taxes or customs duties.

(2) Except in the case of local nationals, no tax shall be levied on or in respect of expenses allowances paid by the Centre to the Chairman or members of the Administrative Council, or on or in respect of salaries, expense allowances or other emoluments paid by the Centre to officials or employees of the Secretariat.

(3) No tax shall be levied on or in respect of fees or expense allowances received by persons acting as conciliators, or arbitrators, or members of a Committee appointed pursuant to paragraph (3) of Article 52, in proceedings under this Convention, if the sole jurisdictional basis for such tax is the location of the Centre or the place where such proceedings are conducted or the place where such fees or allowances are paid.

CHAPTER II

Jurisdiction of the Centre

Article 25

(1) The jurisdiction of the Centre shall extend to any legal dispute arising directly out of an investment, between a Contracting State (or any constituent subdivision or agency of a Contracting State designated to the Centre by that State) and a national of another Contracting State, which the parties to the dispute consent in writing to submit to the Centre. When the parties have given their consent, no party may withdraw its consent unilaterally.

(2) "National of another Contracting State" means:

(a) any natural person who had the nationality of a Contracting State other than the State party to the dispute on the date on which the parties consented to submit such dispute to conciliation or arbitration as well as on the date on which the request was registered pursuant to paragraph (3) of Article 28 or paragraph (3) of Article 36, but does not include any person who on either date also had the nationality of the Contracting State party to the dispute; and

(b) any juridical person which had the nationality of a Contracting State other than the State party to the dispute on the date on which the parties consented to submit such dispute to conciliation or arbitration and any juridical person which had the nationality of the Contracting State party to the dispute on that date and which, because of foreign control, the parties have agreed should be treated as a national of another Contracting State for the purposes of this Convention.

(3) Consent by a constituent subdivision or agency of a Contracting State shall require the approval of that State unless that State notifies the Centre that no such approval is required.

(4) Any contracting State may, at the time of ratification, acceptance or approval of this Convention or at any time thereafter, notify the Centre of the class or classes of disputes which it would or would not consider submitting to the jurisdiction of the Centre. The Secretary-General shall forthwith transmit such notification to all Contracting States. Such notification shall not constitute the consent required by paragraph (1).

Article 26

Consent of the parties to arbitration under this Convention shall, unless otherwise stated, be deemed consent to such arbitration to the exclusion of any other remedy. A Contracting State may require the exhaustion of local administrative or judicial remedies as a condition of its consent to arbitration under this Convention.

Article 27

(1) No Contracting State shall give diplomatic protection, or bring an international claim, in respect of a dispute which one of its nationals and another Contracting State shall have consented to submit or shall have submitted to arbitration under this Convention, unless such other Contracting State shall have failed to abide by and comply with the award rendered in such dispute.

(2) Diplomatic protection, for the purposes of paragraph (1), shall not include informal diplomatic exchanges for the sole purpose of facilitating a settlement of the dispute.

CHAPTER III

Conciliation

SECTION 1

Request for Conciliation

Article 28

(1) Any Contracting State or any national of a Contracting State wishing to institute conciliation proceedings shall address a request to that effect in writing to the Secretary-General who shall send a copy of the request to the other party.

(2) The request shall contain information concerning the issues in dispute, the identity of the parties and their consent to conciliation in accordance with the rules of procedure for the institution of conciliation and arbitration proceedings.

(3) The Secretary-General shall register the request unless he finds, on the basis of the information contained in the request, that the dispute is manifestly outside the jurisdiction of the Centre. He shall forthwith notify the parties of registration or refusal to register.

SECTION 2

Constitution of the Conciliation Commission

Article 29

(1) The Conciliation Commission (hereinafter called the Commission) shall be constituted as soon as possible after registration of a request pursuant to Article 28.

(2) (a) The Commission shall consist of a sole conciliator or any uneven number of conciliators appointed as the parties shall agree.

(b) Where the parties do not agree upon the number of conciliators and the method of their appointment, the Commission shall consist of three conciliators, one conciliator appointed by each party and the third, who shall be the president of the Commission, appointed by agreement of the parties.

Article 30

If the Commission shall not have been constituted within 90 days after notice of registration of the request has been dispatched by the Secretary-General in accordance with paragraph (3) of Article 28, or such other period as the parties may agree, the Chairman shall, at the request of either party and after consulting both parties as far as possible, appoint the conciliator or conciliators not yet appointed.

Article 31

(1) Conciliators may be appointed from outside the Panel of Conciliators, except in the case of appointments by the Chairman pursuant to Article 30.

(2) Conciliators appointed from outside the Panel of Conciliators shall possess the qualities stated in paragraph (1) of Article 14.

SECTION 3

Conciliation Proceedings

Article 32

(1) The Commission shall be the judge of its own competence.

(2) Any objection by a party to the dispute that that dispute is not within the jurisdiction of the Centre, or for other reasons is not within the competence of the Commission, shall be considered by the Commission which shall determine whether to deal with it as a preliminary question or to join the merits of the dispute.

Article 33

Any conciliation proceeding shall be conducted in accordance with the provisions of this Section and, except as the parties otherwise agree, in accordance with the Conciliation Rules in effect on the date on which the parties consented to conciliation. If any question of procedure arises which is not covered by this Section or the Conciliation Rules or any rules agreed by the parties, the Commission shall decide the question.

Article 34

(1) It shall be the duty of the Commission to clarify the issues in dispute between the parties and to endeavour to bring about agreement between them upon mutually acceptable terms. To that end, the Commission may at any stage of the proceedings and from time to time recommend terms of settlement to the parties. The parties shall cooperate in good faith with the Commission in order to enable the Commission to carry out its functions, and shall give their most serious consideration to its recommendations.

(2) If the parties reach agreement, the Commission shall draw up a report noting the issues in dispute and recording that the parties have reached agreement. If, at any stage of the proceedings, it appears to the Commission that there is no likelihood of agreement between the parties, it shall close the proceedings and shall draw up a report noting the submission of the dispute and recording the failure of the parties to reach agreement. If one party fails to appear or participate in the proceedings, the Commission shall close the proceedings and shall draw up a report noting that party's failure to appear or participate.

Article 35

Except as the parties to the dispute shall otherwise agree, neither party to a conciliation proceeding shall be entitled in any other proceeding, whether before arbitrators or in a court of law or otherwise, to invoke or rely on any views expressed or statements or admissions or offers of settlement made by the other party in the conciliation proceedings, or the report or any recommendations made by the Commission.

CHAPTER IV

Arbitration

SECTION 1

Request for Arbitration

Article 36

(1) Any Contracting State or any national of a Contracting State wishing to institute arbitration proceedings shall address a request to that effect in writing to the Secretary-General who shall send a copy of the request to the other party.

(2) The request shall contain information concerning the issues in dispute, the identity of the parties and their consent to arbitration in accordance with the rules of procedure for the institution of conciliation and arbitration proceedings.

(3) The Secretary-General shall register the request unless he finds, on the basis of the information contained in the request, that the dispute is manifestly outside the jurisdiction of the Centre. He shall forthwith notify the parties of registration or refusal to register.

SECTION 2

Constitution of the Tribunal

Article 37

(1) The Arbitral Tribunal (hereinafter called the Tribunal) shall be constituted as soon as possible after registration of a request pursuant to Article 36.

(2) (a) The Tribunal shall consist of a sole arbitrator or any uneven number of arbitrators appointed as the parties shall agree.

(b) Where the parties do not agree upon the number of arbitrators and the method of their appointment, the Tribunal shall consist of three arbitrators, one arbitrator appointed by each party and the third, who shall be the president of the Tribunal, appointed by agreement of the parties.

Article 38

If the Tribunal shall not have been constituted within 90 days after notice of registration of the request has been dispatched by the Secretary-General in accordance with paragraph (3) of Article 36, or such other period as the parties may agree, the Chairman shall, at the request of either party and after consulting both parties as far as possible, appoint the arbitrator or arbitrators not yet appointed. Arbitrators appointed by the Chairman pursuant to this Article shall not be nationals of the Contracting State party to the dispute or of the Contracting State whose national is a party to the dispute.

Article 39

The majority of the arbitrators shall be nationals of States other than the Contracting State party to the dispute and the Contracting State whose national is a party to the dispute; provided, however, that the foregoing provisions of this Article shall not apply if the sole arbitrator or each individual member of the Tribunal has been appointed by agreement of the parties.

Article 40

(1) Arbitrators may be appointed from outside the Panel of Arbitrators, except in the case of appointments by the Chairman pursuant to Article 38.

(2) Arbitrators appointed from outside the Panel of Arbitrators shall possess the qualities stated in paragraph (1) of Article 14.

SECTION 3

Powers and Functions of the Tribunal

Article 41

(1) The Tribunal shall be the judge of its own competence.

(2) Any objection by a party to the dispute that that dispute is not within the jurisdiction of the Centre, or for other reasons is not within the competence of the Tribunal, shall be considered by the Tribunal which shall determine whether to deal with it as a preliminary question or to join it to the merits of the dispute.

Article 42

(1) The Tribunal shall decide a dispute in accordance with such rules of law as may be agreed by the parties. In the absence of such agreement, the Tribunal shall apply the law of the Contracting State party to the dispute (including its rules on the conflict of laws) and such rules of international law as may be applicable.

(2) The Tribunal may not bring in a finding of *non liquet* on the ground of silence or obscurity of the law.

(3) The provisions of paragraphs (1) and (2) shall not prejudice the power of the Tribunal to decide a dispute *ex aequo et bono* if the parties so agree.

Article 43

Except as the parties otherwise agree, the Tribunal may, if it deems it necessary at any stage of the proceedings,

(a) call upon the parties to produce documents or other evidence, and

(b) visit the scene connected with the dispute, and conduct such inquires there as it may deem appropriate.

Article 44

Any arbitration proceeding shall be conducted in accordance with the provisions of this section and, except as the parties otherwise agree, in accordance with the Arbitration Rules in effect on the date on which the parties consented to arbitration. If any question of procedure arises which is not covered by this Section or the

Arbitration Rules or any rules agreed by the parties, the Tribunal shall decide the question.

Article 45

(1) Failure of a party to appear or to present his case shall not be deemed an admission of the other party's assertions.

(2) If a party fails to appear or to present his case at any stage of the proceedings the other party may request the Tribunal to deal with the questions submitted to it and to render an award. Before rendering an award, the Tribunal shall notify, and grant a period of grace to, the party failing to appear or to present its case, unless it is satisfied that that party does not intend to do so.

Article 46

Except as the parties otherwise agree, the Tribunal shall, if requested by a party, determine any incidental or additional claims or counter-claims arising directly out of the subject-matter of the dispute provided that they are within the scope of the consent of the parties and are otherwise within the jurisdiction of the Centre.

Article 47

Except as the parties otherwise agree, the Tribunal may, if it considers that the circumstances so require, recommend any provisional measures which should be taken to preserve the respective rights of either party.

SECTION 4

The Award

Article 48

(1) The Tribunal shall decide questions by a majority of the votes of all its members.

(2) The award of the Tribunal shall be in writing and shall be signed by the members of the Tribunal who voted for it.

(3) The award shall deal with every question submitted to the Tribunal, and shall state the reasons upon which it is based.

(4) Any member of the Tribunal may attach his individual opinion to the award, whether he dissents from the majority or not, or a statement of his dissent.

(5) The Centre shall not publish the award without the consent of the parties.

Article 49

(1) The Secretary-General shall promptly dispatch certified copies of the award to the parties. The award shall be deemed to have been rendered on the date on which the certified copies were dispatched.

(2) The Tribunal upon the request of a party made within 45 days after the date on which the award was rendered may after notice to the other party decide any question which it had omitted to decide in the award, and shall rectify any clerical, arithmetical or similar error in the award. Its decision shall become part of the award and shall be notified to the parties in the same manner as

the award. The periods of time provided for under paragraph (2) of Article 51 and paragraph (2) of Article 52 shall run from the date on which the decision was rendered.

SECTION 5

Interpretation, Revision and Annulment of the Award

Article 50

(1) If any dispute shall arise between the parties as to the meaning or scope of an award, either party may request interpretation of the award by an application in writing addressed to the Secretary-General.

(2) The request shall, if possible, be submitted to the Tribunal which rendered the award. If this shall not be possible, a new Tribunal shall be constituted in accordance with Section 2 of this Chapter. The Tribunal may, if it considers that the circumstances so require, stay enforcement of the award pending its decision.

Article 51

(1) Either party may request revision of the award by an application in writing addressed to the Secretary-General on the ground of discovery of some fact of such a nature as decisively to affect the award, provided that when the award was rendered that fact was unknown to the Tribunal and to the applicant and that the applicant's ignorance of that fact was not due to negligence.

(2) The application shall be made within 90 days after the discovery of such fact and in any event within three years after the date on which the award was rendered.

(3) The request shall, if possible, be submitted to the Tribunal which rendered the award. If this shall not be possible, a new Tribunal shall be constituted in accordance with Section 2 of this Chapter.

(4) The Tribunal may, if it considers that the circumstances so require, stay enforcement of the award pending its decision. If the applicant requests a stay of enforcement of the award in his application, enforcement shall be stayed provisionally until the Tribunal rules on such request.

Article 52

(1) Either party may request annulment of the award by an application in writing addressed to the Secretary-General on one or more of the following grounds:

(a) that the Tribunal was not properly constituted;

(b) that the Tribunal has manifestly exceeded its powers;

(c) that there was corruption on the part of a member of the Tribunal;

(d) that there has been a serious departure from a fundamental rule of procedure; or

(e) that the award has failed to state the reasons on which it is based.

(2) The application shall be made within 120 days after the date on which the award was rendered except that when annulment is requested on the ground of corruption such application shall be

made within 120 days after discovery of the corruption and in any event within three years after the date on which the award was rendered.

(3) On receipt of the request the Chairman shall forthwith appoint from the Panel of Arbitrators an *ad hoc* Committee of three persons. None of the members of the Committee shall have been a member of the Tribunal which rendered the award, shall be of the same nationality as any such member, shall be a national of the State party to the dispute or of the State whose national is a party to the dispute, shall have been designated to the Panel of Arbitrators by either of those States, or shall have acted as a conciliator in the same dispute. The Committee shall have the authority to annul the award or any part thereof on any of the grounds set forth in paragraph (1).

(4) The provisions of Articles 41–45, 48, 49, 53 and 54, and of Chapters VI and VII shall apply *mutatis mutandis* to proceedings before the Committee.

(5) The Committee may, if it considers that the circumstances so require, stay enforcement of the award pending its decision. If the applicant requests a stay of enforcement of the award in this application, enforcement shall be stayed provisionally until the Committee rules on such request.

(6) If the award is annulled the dispute shall, at the request of either party, be submitted to a new Tribunal constituted in accordance with Section 2 of this Chapter.

SECTION 6

Recognition and Enforcement of the Award

Article 53

(1) The award shall be binding on the parties and shall not be subject to any appeal or to any other remedy except those provided for in this Convention. Each party shall abide by and comply with the terms of the award except to the extent that enforcement shall have been stayed pursuant to the relevant provisions of this Convention.

(2) For the purposes of this Section, "award" shall include any decision interpreting, revising or annulling such award pursuant to Articles 50, 51 or 52.

Article 54

(1) Each Contracting State shall recognize an award rendered pursuant to this Convention as binding and enforce the pecuniary obligations imposed by that award within its territories as if it were a final judgment of a court in that State. A Contracting State with a federal constitution may enforce such an award in or through its federal courts and may provide that such courts shall treat the award as if it were a final judgment of the courts of a constituent state.

(2) A party seeking recognition or enforcement in the territories of a Contracting State shall furnish to a competent court or other authority which such State shall have designated for this purpose a copy of the award certified by the Secretary-General. Each Con-

tracting State shall notify the Secretary-General of the designation of the competent court or other authority for this purpose and of any subsequent change in such designation.

(3) Execution of the award shall be governed by the laws concerning the execution of judgments in force in the State in whose territories such execution is sought.

Article 55

Nothing in Article 54 shall be construed as derogating from the law in force in any Contracting State relating to immunity of that State or of any foreign State from execution.

CHAPTER V

Replacement and Disqualification of Conciliators and Arbitrators

Article 56

(1) After a Commission or a Tribunal has been constituted and proceedings have begun, its composition shall remain unchanged; provided, however, that if a conciliator or an arbitrator should die, become incapacitated, or resign, the resulting vacancy shall be filled in accordance with the provisions of Section 2 of Chapter III or Section 2 of Chapter IV.

(2) A member of a Commission or Tribunal shall continue to serve in that capacity not withstanding that he shall have ceased to be a member of the panel.

(3) If a conciliator or arbitrator appointed by a party shall have resigned without the consent of the Commission or Tribunal of which he was a member, the Chairman shall appoint a person from the appropriate Panel to fill the resulting vacancy.

Article 57

A party may propose to a Commission or Tribunal the disqualification of any of its members on account of any fact indicating a manifest lack of the qualities required by paragraph (1) of Article 14. A party to arbitration proceedings may, in addition, propose the disqualification of an arbitrator on the ground that he was ineligible for appointment to the Tribunal under Section 2 of Chapter IV.

Article 58

The decision on any proposal to disqualify a conciliator or arbitrator shall be taken by the other members of the Commission or Tribunal-as the case may be, provided that where those members are equally divided, or in the case of a proposal to disqualify a sole conciliator or arbitrator, or a majority of the conciliators or arbitrators, the Chairman shall take that decision. If it is decided that the proposal is well-founded the conciliator or arbitrator to whom the decision relates shall be replaced in accordance with the provisions of Section 2 of Chapter III or Section 2 of Chapter IV.

CHAPTER VI

Cost of Proceedings

Article 59

The charges payable by the parties for the use of the facilities of the Centre shall be determined by the Secretary-General in accordance with the regulations adopted by the Administrative Council.

Article 60

(1) Each Commission and each Tribunal shall determine the fees and expenses of its members within limits established from time to time by the Administrative Council and after consultation with the Secretary-General.

(2) Nothing in paragraph (1) of this Article shall preclude the parties from agreeing in advance with the Commission or Tribunal concerned upon the fees and expenses of its members.

Article 61

(1) In the case of conciliation proceeding the fees and expenses of members of the Commission as well as the charges for the use of the facilities of the Centre, shall be borne equally by the parties. Each party shall bear any other expenses it incurs in connection with the proceedings.

(2) In the case of arbitration proceedings the Tribunal shall, except as the parties otherwise agree, assess the expenses incurred by the parties in connection with the proceedings, and shall decide how and by whom those expenses, the fees and expenses of the members of the Tribunal and the charges for the use of the facilities of the Centre shall be paid. Such decision shall form part of the award.

CHAPTER VII

Place of Proceedings

Article 62

Counciliation and arbitration proceedings shall be held at the seat of the Centre except as hereinafter provided.

Article 63

Conciliation and arbitration proceedings may be held, if the parties so agree,

(a) at the seat of the Permanent Court of Arbitration or of any other appropriate institution, whether private or public, with which the Centre may make arrangements for that purpose; or

(b) at any other place approved by the Commission or Tribunal after consultation with the Secretary-General.

CHAPTER VIII

Disputes Between Contracting States

Article 64

Any dispute arising between Contracting States concerning the interpretation or application of this Convention which is not settled by negotiation shall be referred to the International Court of Justice by the application of any party to such dispute, unless the States concerned agree to another method of settlement.

CHAPTER IX

Amendment

Article 65

Any Contracting State may propose amendment of this Convention. The text of a proposed amendment shall be communicated to the Secretary-General not less than 90 days prior to the meeting of the Administrative Council at which such amendment is to be considered and shall forthwith be transmitted by him to all the members of the Administrative Council.

Article 66

(1) If the Administrative Council shall so decide by a majority of two-thirds of its members, the proposed amendment shall be circulated to all Contracting States for ratification, acceptance or approval. Each amendment shall enter into force 30 days after dispatch by the depositary of this Convention of a notification to Contracting States that all Contracting States have ratified, accepted or approved the amendment.

(2) No amendment shall affect the rights and obligations under this Convention of any Contracting State or of any of its constituent subdivisions or agencies, or of any national of such State arising out of consent to the jurisdiction of the Centre given before the date of entry into force of the amendment.

CHAPTER X

Final Provisions

Article 67

This Convention shall be open for signature on behalf of States members of the Bank. It shall also be open for signature on behalf of any other State which is a party to the Statute of the International Court of Justice and which the Administrative Council, by a vote of two-thirds of its members, shall have invited to sign the Convention.

Article 68

(1) This Convention shall be subject to ratification, acceptance or approval by the signatory States in accordance with their respective constitutional procedures.

(2) This Convention shall enter into force 30 days after the date of deposit of the twentieth instrument of ratification, acceptance or

approval. It shall enter into force for each State which subsequently deposits its instrument of ratification, acceptance or approval 30 days after the date of such deposit.

Article 69

Each Contracting State shall take such legislative or other measures as may be necessary for making the provisions of this Convention effective in its territories.

Article 70

This Convention shall apply to all territories for whose international relations a Contracting State is responsible, except those which are excluded by such State by written notice to the depositary of this Convention either at the time of ratification, acceptance or approval or subsequently.

Article 71

Any Contracting State may denounce this Convention by written notice to the depositary of this Convention. The denunciation shall take effect six months after receipt of such notice.

Article 72

Notice by a Contracting State pursuant to Articles 70 or 71 shall not affect the rights or obligations under this Convention of that State or of any of its constituent subdivisions or agencies or of any national of that State arising out of consent to the jurisdiction of the Centre given by one of them before such notice was received by the depositary.

Article 73

Instruments of ratification, acceptance or approval of this Convention and of amendments thereto shall be deposited with the Bank which shall act as the depositary of this Convention. The depositary shall transmit certified copies of this Convention to States members of the Bank and to any other State invited to sign the Convention.

Article 74

The depositary shall register this Convention with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations and the Regulations thereunder adopted by the General Assembly.

Article 75

The depositary shall notify all signatory States of the following:

(a) signatures in accordance with Article 67;

(b) deposits of instruments of ratification, acceptance and approval in accordance with Article 73;

(c) the date on which this Convention enters into force in accordance with Article 68;

(d) exclusions from territorial application pursuant to Article 70;

(e) the date on which any amendment of this Convention enters into force in accordance with Article 66; and

(f) denunciations in accordance with Article 71.

DONE at Washington in the English, French and Spanish languages, all three texts being equally authentic, in a single copy which shall remain deposited in the archives of the International Bank for Reconstruction and Development, which has indicated by its signature below its agreement to fulfill the functions with which it is charged under this Convention.

b. Resolution 65-14—Approval for Submission of Settlement of Investment Disputes

Adopted March 18, 1965

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT,
Washington, D.C.

Whereas the Board of Governors on September 10, 1964, adopted Resolution 214 providing as follows:

Resolved:

(*a*) The report of the Executive Directors on "Settlement of Investment Disputes," dated August 6, 1964, is hereby approved.

(*b*) The Executive Directors are requested to formulate a convention establishing facilities and procedures which would be available on a voluntary basis for the settlement of investment disputes between Contracting States and nationals of other Contracting States through conciliation and arbitration.

(*c*) In formulating such a convention, the Executive Directors shall take into account the views of member governments and shall keep in mind the desirability of arriving at a text which could be accepted by the largest possible number of governments.

(*d*) The Executive Directors shall submit the text of such a Convention to member governments with such recommendations as they shall deem appropriate.

Now, therefore, the Executive Directors hereby resolve as follows:

(1) The text of the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States formulated by the Executive Directors in the form presented to this meeting and the report of the Executive Directors thereon are hereby approved for submission to member governments of the Bank;

(2) The President of the Bank shall transmit said report and the text of the said convention to all member governments of the Bank;

(3) The President and the General Counsel of the Bank shall sign a copy of said convention on behalf of the Bank to indicate the Bank's agreement to fulfill the functions with which it is charged under the convention;

(4) The copy of the Convention so signed on behalf of the Bank shall remain deposited in the archives of the Bank and shall be open for signature on behalf of governments in accordance with its terms.

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630

I. ENERGY AND NATURAL RESOURCES

CONTENTS

Page
1. Agreement on an International Energy Program 633
2. Export and Import of Nuclear Equipment and Material Regulations 658
3. Procedures Established Pursuant to the Nuclear Non-Proliferation Act of 1978 692

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1. Agreement on an International Energy Program (amended)[1]

Signed by all the parties November 18, 1974.

The Governments of the Republic of Austria, the Kingdom of Belgium, Canada, the Kingdom of Denmark, the Federal Republic of Germany, Ireland, the Italian Republic, Japan, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, Spain, the Kingdom of Sweden, the Swiss Confederation, the Republic of Turkey, the United Kingdom of Great Britain and Northern Ireland, and the United States of America,

Desiring to promote secure oil supplies on reasonable and equitable terms,

Determined to take common effective measures to meet oil supply emergencies by developing an emergency self-sufficiency in oil supplies, restraining demand and allocating available oil among their countries on an equitable basis,

Desiring to promote cooperative relations with oil producing countries and with other oil consuming countries, including those of the developing world, through a purposeful dialogue, as well as through other forms of cooperation, to further the opportunities for a better understanding between consumer and producer countries.

Mindful of the interests of other oil consuming countries including those of the developing world,

Desiring to play a more active role in relation to the oil industry by establishing a comprehensive international information system and a permanent framework for consultation with oil companies,

Determined to reduce their dependence on imported oil by undertaking long term cooperative efforts on conservation of energy, on accelerated development of alternative sources of energy, on research and development in the energy field and on uranium enrichment,

Convinced that those objectives can only be reached through continued cooperative efforts within effective organs,

Expressing the intention that such organs be created within the framework of the Organization for Economic Co-operation and Development,

Recognizing that other member countries of the Organization for Economic Co-operation and Development may desire to join in their efforts,

Considering the special responsibility of governments for energy supply,

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[1] TIAS 8278; 27 UST 1685. Entered into force for the United States January 19, 1976. For a list of states which are parties to the Agreement, see Department of State publication, *Treaties in Force.*

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Conclude that it is necessary to establish an International Energy Program to be implemented through an International Energy Agency, and to that end,

Have agreed as follows:

Article 1

1. The Participating Countries shall implement the International Energy Program as provided for in this Agreement through the International Energy Agency, described in Chapter IX, hereinafter referred to as the "Agency."

2. The term "Participating Countries" means States to which this Agreement applies provisionally and States for which the Agreement has entered into and remains in force.

3. The term "group" means the Participating Countries as a group:

CHAPTER I. EMERGENCY SELF-SUFFICIENCY

Article 2

1. The Participating Countries shall establish a common emergency self-sufficiency in oil supplies. To this end, each Participating Country shall maintain emergency reserves sufficient to sustain consumption for at least 60 days with no net oil imports. Both consumption and net oil imports shall be reckoned at the average daily level of the previous calendar year.

2. The Governing Board shall, acting by special majority not later than July 1st, 1975, decide the date from which the emergency reserve commitment of each Participating Country shall, for the purpose of calculating its supply right referred to in Article 7, be deemed to be raised to a level of 90 days. Each Participating Country shall increase its actual level or emergency reserves to 90 days and shall endeavour to do so by the date so decided.

3. The term "emergency reserve commitment" means the emergency reserves equivalent to 60 days of net oil imports as set out in paragraph 1 and, from the date to be decided according to paragraph 2, to 90 days of net oil imports as set out in paragraph 2.

Article 3

1. The emergency reserve commitment set out in Article 2 may be satisfied by

Oil stocks.
Fuel switching capacity.
Stand-by oil production.

In accordance with the provisions of the Annex which forms an integral part of this Agreement.

2. The Governing Board shall, acting by majority, not later than July 1st, 1975, decide the extent to which the emergency reserve commitment may be satisfied by the elements mentioned in paragraph 1.

Article 4

1. The Standing Group on Emergency Questions shall, on a continuing basis, review the effectiveness of the measures taken by

each Participating Country to meet its emergency reserve commitment.

2. The Standing Group on Emergency Questions shall report to the Management Committee, which shall make proposals, as appropriate, to the Governing Board. The Governing Board may, acting by majority, adopt recommendations to Participating Countries.

CHAPTER II. DEMAND RESTRAINT

Article 5

1. Each Participating Country shall at all times have ready a program of contingent oil demand restraint measures enabling it to reduce its rate of final consumption in accordance with Chapter IV.

2. The Standing Group on Emergency Questions shall, on a continuing basis, review and assess:

Each Participating Country's program of demand restraint measures.

The effectiveness of measures actually taken by each Participating Country.

3. The Standing Group on Emergency Questions shall report to the Management Committee, which shall make proposals, as appropriate, to the Governing Board. The Governing Board may, acting by majority, adopt recommendations to Participating Countries.

CHAPTER III. ALLOCATION

Article 6

1. Each Participating Country shall take the necessary measures in order that allocation of oil will be carried out pursuant to this Chapter and Chapter IV.

2. The Standing Group on Emergency Questions shall, on a continuing basis, review and assess:

Each Participating Country's measures in order that allocation of oil will be carried out pursuant to this chapter and Chapter IV.

The effectiveness of measures actually taken by each Participating Country.

3. The Standing Group on Emergency Questions shall report to the Management Committee, which shall make proposals, as appropriate, to the Governing Board. The Governing Board may, acting by majority, adopt recommendations to Participating Countries.

4. The Governing Board shall, acting by majority, decide promptly on the practical procedures for the allocation of oil and on the procedures and modalities for the participation of oil companies therein within the framework of this Agreement.

Article 7

1. When allocation of oil is carried out pursuant to Article 13, 14, or 15, each Participating Country shall have a supply right equal to its permissible consumption less its emergency reserve drawdown obligation.

2. A Participating Country whose supply right exceeds the sum of its normal domestic production and actual net imports available

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during an emergency shall have an allocation right which entitles it to additional net imports equal to that excess.

3. A Participating Country in which the sum of normal domestic production and actual net imports available during an emergency exceeds its supply right shall have an allocation obligation which requires it to supply, directly or indirectly, the quantity of oil equal to that excess to other Participating Countries. This would not preclude any Participating Country from maintaining exports of oil to non-participating countries.

4. The term "permissible consumption" means the average daily rate of final consumption allowed when emergency demand restraint at the applicable level has been activated; possible further voluntary demand restraint by any Participating Country shall not affect its allocation right or obligation.

5. The term "emergency reserve drawdown obligation" means the emergency reserve commitment of any Participating Country divided by the total emergency reserve commitment of the group and multiplied by the group supply shortfall.

6. The term "group supply shortfall" means the shortfall for the group as measured by the aggregate permissible consumption for the group minus the daily rate of oil supplies available to the group during an emergency.

7. The term "oil supplies available to the group" means:

All crude oil available to the group.

All petroleum products imported from outside the group, and all finished products and refinery feedstocks which are produced in association with natural gas and oil and are available to the group.

8. The term "final consumption" means total domestic consumption of all finished petroleum products.

Article 8

1. When allocation of oil to a Participating Country is carried out pursuant to Article 17, that Participating Country shall:

Sustain from its final consumption the reduction in its oil supplies up to a level equal to 7 per cent of its final consumption during the base period.

Have an allocation right equal to the reduction in its oil supplies which results in a reduction of its final consumption over and above that level.

2. The obligation to allocate this amount of oil is shared among the other Participating Countries on the basis of their final consumption during the base period.

3. The Participating Countries may meet their allocation obligations by any measures of their own choosing, including demand restraint measures or use of emergency reserves.

Article 9

1. For purposes of satisfying allocation rights and allocation obligations, the following elements will be included:

All crude oil,
All petroleum products,
All refinery feedstocks, and

All finished products produced in association with natural gas and crude oil.

2. To calculate a Participating Country's allocation right, petroleum products normally imported by that Participating Country, whether from other Participating Countries or from non-participating countries, shall be expressed in crude oil equivalent and treated as though they were imports of crude oil to that Participating Country.

3. Insofar as possible, normal channels of supply will be maintained as well as the normal supply proportions between crude oil and products and among different categories of crude oil and products.

4. When allocation takes place, an objective of the Program shall be that available crude oil and products shall, insofar as possible, be shared within the refining and distributing industries as well as between refining and distributing companies in accordance with historical supply patterns.

Article 10

1. The objectives of the Program shall include ensuring fair treatment for all Participating Countries and basing the price for allocated oil on the price conditions prevailing for comparable commercial transactions.

2. Questions relating to the price of oil allocated during an emergency shall be examined by the Standing Group on Emergency Questions

Article 11

1. It is not an objective of the Program to seek to increase, in an emergency, the share of world oil supply that the group had under normal market conditions. Historical oil trade patterns should be preserved as far as is reasonable, and due account should be taken of the position of individual non-participating countries.

2. In order to maintain the principles set out in paragraph 1, the Management Committee shall make proposals, as appropriate, to the Governing Board, which, acting by majority, shall decide on such proposals.

CHAPTER IV. ACTIVATION

Activation

Article 12

Whenever the group as a whole or any Participating Country sustains or can reasonably be expected to sustain a reduction in its oil supplies, the emergency measures, which are the mandatory demand restraint referred to in Chapter II and the allocation of available oil referred to in Chapter III, shall be activated in accordance with this Chapter.

Article 13

Whenever the group sustains or can reasonably be expected to sustain a reduction in the daily rate of its oil supplies at least equal to 7 per cent of the average daily rate of its final consumption during the base period, each Participating Country shall implement demand restraint measures sufficient to reduce its final consumption by an amount equal to 7 percent of its final consumption during the base period, and allocation of available oil among the Participating Countries shall take place in accordance with Articles 7, 9, 10 and 11.

Article 14

Whenever the group sustains or can reasonably be expected to sustain a reduction in the daily rate of its oil supplies at least equal to 12 per cent of the average daily rate of its final consumption during the base period, each Participating Country shall implement demand restraint measures sufficient to reduce its final consumption by an amount equal to 10 per cent of its final consumption during the base period, and allocation of available oil among the Participating Countries shall take place in accordance with Articles 7, 9, 10 and 11.

Article 15

When cumulative daily emergency reserve drawdown obligations as defined in Article 7 have reached 50 per cent of emergency reserve commitments and a decision has been taken in accordance with Article 20, each Participating Country shall take the measures so decided, and allocation of available oil among the Participating Countries shall take place in accordance with Articles 7, 9, 10 and 11.

Article 16

When demand restraint is activated in accordance with this Chapter, a Participating Country may substitute for demand restraint measures use of emergency reserves held in excess of its emergency reserve commitment as provided in the Program.

Article 17

1. Whenever any Participating Country sustains or can reasonably be expected to sustain a reduction in the daily rate of its oil supplies which results in a reduction of the daily rate of its final consumption by an amount exceeding 7 per cent of the average daily rate of its final consumption during the base period, allocation of available oil to that Participating Country shall take place in accordance with Articles 8 to 11.

2. Allocation of available oil shall also take place when the conditions in paragraph 1 are fulfilled in a major region of a Participating Country whose oil market is incompletely integrated. In this case, the allocation obligation of other Participating Countries shall be reduced by the theoretical allocation obligation of any other major region or regions of the Participating Country concerned.

Article 18

1. The term "base period" means the most recent four quarters with a delay of one quarter necessary to collect information. While emergency measures are applied with regard to the group or to a Participating Country, the base period shall remain fixed.

2. The Standing Group on Emergency Questions shall examine the base period set out in paragraph 1, taking into account in particular such factors as growth, seasonal variations in consumption and cyclical changes and shall, not later than April 1st, 1975, report to the Management Committee. The Management Committee shall make proposals, as appropriate, to the Governing Board, which, acting by majority, shall decide on these proposals not later than January 1, 1975.

Article 19

1. The Secretariat shall make a finding when a reduction of oil supplies as mentioned in Article 13, 14 or 17 has occurred or can reasonably be expected to occur, and shall establish the amount of the reduction or expected reduction for each Participating Country and for the group. The Secretariat shall keep the Management Committee informed of its deliberations, and shall immediately report its finding to the members of the Committee and inform the Participating Countries thereof. The report shall include information on the nature of the reduction.

2. Within 48 hours of the Secretariat's reporting a finding, the Committee shall meet to review the accuracy of the data compiled and the information provided. The Committee shall report to the Governing Board within a further 48 hours. The report shall set out the views expressed by the members of the Committee, including any views regarding the handling of the emergency.

3. Within 48 hours of receiving the Management Committee's report, the Governing Board shall meet to review the finding of the Secretariat in the light of that report. The activation of emergency measures shall be considered confirmed and Participating Countries shall implement such measures within 15 days of such confirmation unless the Governing Board, acting by special majority, decides within a further 48 hours to activate the emergency measures, to activate them only in part or to fix another time limit for their implementation.

4. If, according to the finding of the Secretariat, the conditions of more than one of the Articles 14, 13 and 17 are fulfilled, any decision not to activate emergency measures shall be taken separately for each Article and in the above order. If the conditions in Article 17 are fulfilled with regard to more than one Participating Country any decision not to activate allocation shall be taken separately with respect to each Country.

5. Decisions pursuant to paragraphs 3 and 4 may at any time be reversed by the Governing Board, acting by majority.

6. In making its finding under this Article, the Secretariat shall consult with oil companies to obtain their views regarding the situation and the appropriateness of the measures to be taken.

7. An international advisory board from the oil industry shall be convened, not later than the activation of emergency measures, to assist the Agency in ensuring the effective operation of such measures.

Article 20

1. The Secretariat shall make a finding when cumulative daily emergency reserve drawdown obligations have reached or can rea-

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sonably be expected to reach 50 percent of emergency reserve commitments. The Secretariat shall immediately report its finding to the members of the Management Committee and inform the Participating Countries thereof. The report shall include information on the oil situation.

2. Within 72 hours of the Secretariat's reporting such a finding, the Management Committee shall meet to review the data compiled and the information provided. On the basis of available information the Committee shall report to the Governing Board within a further 48 hours proposing measures required for meeting the necessities of the situation, including the increase in the level of mandatory demand restraint that may be necessary. The report shall set out the views expressed by the members of the Committee.

3. The Governing Board shall meet within 48 hours of receiving the Committee's report and proposal. The Governing Board shall review the finding of the Secretariat and the report of the Management Committee and shall within a further 48 hours, acting by special majority, decide on the measures required for meeting the necessities of the situation, including the increase in the level of mandatory demand restraint that may be necessary.

Article 21

1. Any Participating Country may request the Secretariat to make a finding under Article 19 or 20.

2. If, within 72 hours of such request, the Secretariat does not make such a finding, the Participating Country may request the Management Committee to meet and consider the situation in accordance with the provisions of this Agreement.

3. The Management Committee shall meet within 48 hours of such request in order to consider the situation. It shall, at the request of any Participating Country, report to the Governing Board within a further 48 hours. The report shall set out the views expressed by the members of the Committee and by the Secretariat, including any views regarding the handling of the situation.

4. The Governing Board shall meet within 48 hours of receiving the Management Committee's report. If it finds, acting by majority, that the conditions set out in Article 13, 14, 15 or 17 are fulfilled, emergency measures shall be activated accordingly.

Article 22

The Governing Board may at any time decide by unanimity to activate any appropriate emergency measures not provided for in this Agreement, if the situation so requires.

Deactivation

Article 23

1. The Secretariat shall make a finding when a reduction of supplies as mentioned in Article 13, 14 or 17 has decreased or can reasonably be expected to decrease below the level referred to in the relevant Article. The Secretariat shall keep the Management Committee informed of its deliberations and shall immediately report its finding to the members of the Committee and inform the Participating Countries thereof.

2. Within 72 hours of the Secretariat's reporting a finding, the Management Committee shall meet to review the data compiled and the information provided. It shall report to the Governing Board within a further 48 hours. The report shall set out the views expressed by the members of the Committee, including any views regarding the handling of the emergency.

3. Within 48 hours of receiving the Committee's report, the Governing Board shall meet to review the finding of the Secretariat in the light of the report from the Management Committee. The deactivation of emergency measures or the applicable reduction of the demand restraint level shall be considered confirmed unless the Governing Board, acting by special majority, decides within a further 48 hours to maintain the emergency measures or to deactivate them only in part.

4. In making its findings under this Article, the Secretariat shall consult with the international advisory board, mentioned in Article 19, paragraph 7, to obtain its views regarding the situation and the appropriateness of the measures to be taken.

5. Any Participating Country may request the Secretariat to make a finding under this Article.

Article 24

When emergency measures are in force, and the Secretariat has not made a finding under Article 23, the Governing Board, acting by special majority, may at any time decide to deactivate the measures either wholly or in part.

CHAPTER V. INFORMATION SYSTEM ON THE INTERNATIONAL OIL MARKET

Article 25

1. The Participating Countries shall establish an Information System consisting of two sections:

—a General Section on the situation in the international oil market and activities of oil companies,

—a Special Section designed to ensure the efficient operation of the measures described in Chapters I to IV.

2. The System shall be operated on a permanent basis, both under normal conditions and during emergencies, and in a manner which ensures the confidentiality of the information made available.

3. The Secretariat shall be responsible for the operation of the Information System and shall make the information compiled available to the Participating Countries.

Article 26

The term "oil companies" means international companies, national companies, non-integrated companies and other entities which play a significant role in the international oil industry.

General section

Article 27

1. Under the General Section of the Information System, the Participating Countries shall, on a regular basis, make available to the Secretariat information on the precise data identified in accordance with Article 29 on the following subjects relating to oil companies operating within their respective jurisdictions:

(a) Corporate structure;

(b) Financial structure, including balance sheets, profit and loss accounts, and taxes paid;

(c) Capital investments realized;

(d) Terms of arrangements for access to major sources of crude oil;

(e) Current rates of production and anticipated changes therein;

(f) Allocations of available crude supplies to affiliates and other customers (criteria and realizations);

(g) Stocks;

(h) Cost of crude oil and oil products;

(i) Prices, including transfer prices to affiliates;

(j) Other subjects, as decided by the Governing Board, acting by unanimity.

2. Each Participating Country shall take appropriate measures to ensure that all oil companies operating within its jurisdiction make such information available to it as is necessary to fulfill its obligations under paragraph 1, taking into account such relevant information as is already available to the public or to Governments.

3. Each Participating Country shall provide information on a nonproprietary basis and on a company and/or country basis as appropriate, and in such manner and degree as will not predjudice competition or conflict with the legal requirements of any Participating Country relating to competition.

4. No Participating Country shall be entitled to obtain, through the General Section, any information on the activities of a company operating within its jurisdiction which could not be obtained by it from that company by application of its laws or through its institutions and customs if that company were operating solely within its jurisdiction.

Article 28

Information provided on a "non-proprietary basis" means information which does not constitute or relate to patents, trademarks, scientific or manufacturing processes or developments, individual sales, tax returns, customer lists or geological and geophysical information, including maps.

Article 29

1. Within 60 days of the first day of the provisional application of this Agreement, and as appropriate thereafter, the Standing Group on the Oil Market shall submit a report to the Management Committee identifying the precise data within the list of subjects in Article 27, paragraph 1, which are required for the efficient operation

of the General Section, and specifying the procedures for obtaining such data on a regular basis.

2. The Management Committee shall review the report and make proposals to the Governing Board which, within 30 days of the submission of the report to the Management Committee, and acting by majority, shall take the decisions necessary for the establishment and efficient operation of the General Section.

Article 30

In preparing its reports under Article 29, the Standing Group on the Oil Market shall

Consult with oil companies to ensure that the System is compatible with industry operations;

Identify specific problems and issues which are of concern to Participating Countries;

Identify specific data which are useful and necessary to resolve such problems and issues;

Work out precise standards for the harmonization of the required information in order to ensure comparability of the data;

Work out procedures to ensure the confidentiality of the information.

Article 31

1. The Standing Group on the Oil Market shall on a continuing basis review the operation of the General Section.

2. In the event of changes in the conditions of the international oil market, the Standing Group on the Oil Market shall report to the Management Committee. The Committee shall make proposals on appropriate changes to the Governing Board which, acting by majority, shall decide on such proposals.

Special section

Article 32

1. Under the Special Section of the Information System, the Participating Countries shall make available to the Secretariat all information which is necessary to ensure the efficient operation of emergency measures.

2. Each Participating Country shall take appropriate measures to ensure that all oil companies operating within its jurisdiction make such information available to it as is necessary to enable it to fulfill its obligations under paragraph 1 and under Article 33.

3. The Secretariat shall, on the basis of this information and other information available, continuously survey the supply of oil to and the consumption of oil within the group and each Participating Country.

Article 33

Under the Special Section, the Participating Countries shall, on a regular basis, make available to the Secretariat information on the precise data identified in accordance with Article 34 on the following subjects.

(a) Oil consumption and supply;

(b) Demand restraint measures;

(c) Levels of emergency Reserves;

(d) Availability and utilization of transportation facilities;

(e) Current and projected levels of international supply and demand;

(f) Other subjects, as decided by the Governing Board, acting by unanimity.

Article 34

1. Within 30 days of the first day of the provisional application of this Agreement, the Standing Group on Emergency Questions shall submit a report to the Management Committee identifying the precise data within the list of subjects in Article 33 which are required under the Special Section to ensure the efficient operation of emergency measures and specifying the procedures for obtaining such data on a regular basis, including accelerated procedures in times of emergency.

2. The Management Committee shall review the report and make proposals to the Governing Board which, within 30 days of the submission of the report to the Management Committee, and acting by majority, shall take the decisions necessary for the establishment and efficient operation of the Special Section.

Article 35

In preparing its report under Article 34, the Standing Group on Emergency Questions shall

Consult with oil companies to ensure that the System is compatible with industry operations;

Work out precise standards for the harmonization of the required information in order to ensure comparability of the data;

Work out procedures to ensure the confidentiality of the information.

Article 36

The Standing Group on Emergency Questions shall on a continuing basis review the operation of the Special Section and shall, as appropriate, report to the Management Committee. The Committee shall make proposals on appropriate changes to the Governing Board, which, acting by majority, shall decide on such proposals.

CHAPTER VI. FRAMEWORK FOR CONSULTATION WITH OIL COMPANIES

Article 37

1. The Participating Countries shall establish within the Agency a permanent framework for consultation within which one or more Participating Countries may, in an appropriate manner, consult with and request information from individual oil companies on all important aspects of the oil industry, and within which the Participating Countries may share among themselves on a cooperative basis the results of such consultations.

2. The framework for consultation shall be established under the auspices of the Standing Group on the Oil Market.

3. Within 60 days of the first day of the provisional application of this Agreement, and as appropriate thereafter, the Standing Group on the Oil Market, after consultation with oil companies, shall submit a report to the Management Committee on the procedures for such consultations. The Management Committtee shall review the report and make proposals to the Governing Board, which, within 30 days of the submission of the report to the Management Committee, and acting by majority, shall decide on such procedures.

Article 38

1. The Standing Group on the Oil Market shall present a report to the Management Committee on consultations held with any oil company within 30 days thereof.

2. The Management Committee shall consider the report and may make proposals on appropriate cooperative action to the Governing Board, which shall decide on such proposals.

Article 39

1. The Standing Group on the Oil Market shall, on a continuing basis, evaluate the results of the consultations with and the information collected from oil companies.

2. On the basis of these evaluations, the Standing Group may examine and assess the international oil situation and the position of the oil industry and shall report to the Management Committee.

3. The Management Committee shall review such reports and make proposals on appropriate cooperative action to the Governing Board, which shall decide on such proposals.

Article 40

The Standing Group on the Oil Market shall submit annually a general report to the Management Committee on the functioning of the framework for consultation with oil companies.

CHAPTER VII. LONG TERM COOPERATION ON ENERGY

Article 41

1. The Participating Countries are determined to reduce over the longer term their dependence on imported oil for meeting their total energy requirements.

2. To this end, the Participating Countries will undertake national programs and promote the adoption of cooperative programs, including, as appropriate, the sharing of means and efforts, while concerting national policies, in the areas set out in Article 42.

Article 42

1. The Standing Group on Long Term Cooperation shall examine and report to the Management Committee on cooperative action. The following areas shall in particular be considered:

(a) Conservation of energy, including cooperative programs on

Exchange of national experiences and information on energy conservation;

Ways and means for reducing the growth of energy consumption through conservation.

(b) Development of alternative sources of energy such as domestic oil, coal, natural gas, nuclear energy and hydroelectric power, including cooperative programs on

Exchange of information on such matters as resources, supply and demand, price and taxation;

Ways and means for reducing the growth of consumption of imported oil through the development of alternative sources of energy;

Concrete projects, including jointly financed projects;

Criteria, quality objectives and standards for environmental protection.

(c) Energy research and development, including as a matter of priority cooperative programs on

Coal technology;

Solar energy;

Radioactive waste management;

Controlled thermonuclear fusion;

Production of hydrogen from water;

Nuclear safety;

Waste heat utilization;

Conservation of energy;

Municipal and industrial waste utilization for energy conservation;

Overall energy system analysis and general studies.

(d) "Uranium enrichment, including cooperative programs"

To monitor developments of natural and enriched uranium supply;

To facilitate development of natural uranium resources and enrichment services;

To encourage such consultations as may be required to deal with international issues that may arise in relation to the expansion of enriched uranium supply;

To arrange for the requisite collection, analysis and dissemination data related to the planning of enrichment services.

2. In examining the areas of cooperative action, the Standing Group shall take due account of ongoing activities elsewhere.

3. Program developed under paragraph 1 may be jointly financed. Such joint financing may take place in accordance with Article 64, paragraph 2.

Article 43

1. The Management Committee shall review the reports of the Standing Group and make appropriate proposals to the Governing Board, which shall decide on these proposals not later than July 1st, 1975.

2. The Governing Board shall take into account possibilities for cooperation within a broader framework.

CHAPTER VIII. RELATIONS WITH PRODUCER COUNTRIES AND WITH OTHER CONSUMER COUNTRIES

Article 44

The Participating Countries will endeavour to promote cooperative relations with oil producing countries and with other oil consuming countries, including developing countries. They will keep under review developments in the energy field with a view to identifying opportunities for, and promoting a purposeful dialogue, as well as other forms of cooperation, with producer countries and with other consumer countries.

Article 45

To achieve the objectives set out in Article 44, the Participating Countires will give full consideration to the needs and interests of other oil consuming countries, particularly those of the developing countries.

Article 46

The Participating Countries will, in the context of the Program, exchange views on their relations with oil producing countries. To this end, the Participating Countries should inform each other of cooperative action on their part with producer countries which is relevant to the objectives of the Program.

Article 47

The Participating Countries will, in the context of the Program

Seek, in the light of their continuous review of developments in the international energy situation and its effect on the world economy, opportunities and means of encouraging stable international trade in oil and of promoting secure oil supplies on reasonable and equitable terms for each Participating Country;

Consider, in the light of work going on in other international organisations, other possible fields of cooperation including the prospects for cooperation in accelerated industrialisation and socio-economic development in the principal producing areas and the implications of this for international trade and investment;

Keep under review the prospects for cooperation with oil producing countries on energy questions of mutual interest, such as conservation of energy, the development of alternative sources, and research and development.

Article 48

1. The Standing Group on Relations with Producer and other Consumer Countries will examine and report to the Management Committee on the matters described in this Chapter.

2. The Management Committee may make proposals on appropriate cooperative action regarding these matters to the Governing Board, which shall decide on such proposals.

CHAPTER IX. INSTITUTIONAL AND GENERAL PROVISIONS

Article 49

1. The Agency shall have the following organs:
   A Governing Board;
   A Management Committee;
   Standing Groups on
      Emergency Questions

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The Oil Market
Long Term Cooperation
Relations with Producer and Other Consumer Countries

2. The Governing Board or the Management Committee may, acting by majority, establish any other organ necessary for the implementation of the Program.

3. The Agency shall have a Secretariat to assist the organs mentioned in paragraphs 1 and 2.

Governing Board

Article 50

1. The Governing Board shall be composed of one or more ministers or their delegates from each Participating Country.

2. The Governing Board, acting by majority, shall adopt its own rules of procedure. Unless otherwise decided in the rules procedure, these rules shall also apply to the Management Committee and the Standing Groups.

3. The Governing Board, acting by majority, shall elect its Chairman and Vice Chairmen.

Article 51

1. The Governing Board shall adopt decisions and make recommendations which are necessary for the proper functioning of the Program.

2. The Governing Board shall review periodically and take appropriate action concerning developments in the international energy situation, including problems relating to the oil supplies of any Participating Country or Countries, and the economic and monetary implications of these developments. In its activities concerning the economic and monetary implications of developments in the international energy situation, the Governing Board shall take into account the competence and activities of international institutions responsible for overall economic and monetary questions.

3. The Governing Board, acting by majority, may delegate any of its functions to any other organ of the Agency.

Article 52

1. Subject to Article 61, paragraph 2, and Article 65, decisions adopted pursuant to this Agreement by the Governing Board or by any other organ by delegation from the Board shall be binding on the Participating Countries.

2. Recommendations shall not be binding.

Management Committee

Article 53

1. The Management Committee shall be composed of one or more senior representatives of the Government of each Participating Country.

2. The Management Committee shall carry out the functions assigned to it in this Agreement and any other function delegated to it by the Governing Board.

3. The Management Committee may examine and make proposals to the Governing Board, as appropriate, on any matter within the scope of this Agreement.

4. The Management Committee shall be convened upon the request of any Participating Country.

5. The Management Committee, acting by majority, shall elect its Chairman and Vice-Chairmen.

Standing Groups

Article 54

1. Each Standing Group shall be composed of one or more representatives of the Government of each Participating Country.

2. The Management Committee, acting by majority, shall elect the Chairmen and Vice-Chairmen of the Standing Groups.

Article 55

1. The Standing Group on Emergency Questions shall carry out the functions assigned to it in Chapters I to V and the Annex and any other function delegated to it by the Governing Board.

2. The Standing Group may review and report to the Management Committee on any matter within the scope of Chapters I to V and the Annex.

3. The Standing Group may consult with oil companies on any matter within its competence.

Article 56

1. The Standing Group on the Oil Market shall carry out the functions assigned to it in Chapters V and VI and any other function delegated to it by the Governing Board.

2. The Standing Group may review and report to the Management Committee on any matter within the scope of Chapters V and VI.

3. The Standing Group may consult with oil companies on any matter within its competence.

Article 57

1. The Standing Group on Long Term Cooperation shall carry out the functions assigned to it in Chapter VII and any other function delegated to it by the Governing Board.

2. The Standing Group may review and report to the Management Committee on any matter within the scope of Chapter VII.

Article 58

1. The Standing Group on Relations with Producer and other Consumer Countries shall carry out the functions assigned to it in Chapter VIII and any other function delegated to it by the Governing Board.

2. The Standing Group may review and report to the Management Committee on any matter within the scope of Chapter VIII.

3. The Standing Group may consult with oil companies on any matter within its competence.

Secretariat

Article 59

1. The Secretariat shall be composed of an Executive Director and such staff as is necessary.

2. The Executive Director shall be appointed by the Governing Board.

3. In the performance of their duties under this Agreement the Executive Director and the staff shall be responsible to and report to the organs of the Agency.

4. The Governing Board, acting by majority, shall make all decisions necessary for the establishment and the functioning of the Secretariat.

Article 60

The Secretariat shall carry out the functions assigned to it in this Agreement and any other function assigned to it by the Governing Board.

Voting

Article 61

1. The Governing Board shall adopt decisions and recommendations for which no express voting provision is made in this Agreement, as follows:

(a) by majority:

Decisions on the management of the Program, including decisions applying provisions of this Agreement which already impose specific obligations on Participating Countries

Decisions on procedural questions

Recommendations

(b) by unanimity:

All other decisions, including in particular decisions which impose on Participating Countries new obligations not already specified in this Agreement.

2. Decisions mentioned in paragraph 1(b) may provide:

(a) that they shall not be binding on one or more Participating Countries;

(b) that they shall be binding only under certain conditions.

Article 62

1. Unanimity shall require all of the votes of the Participating Countries present and voting. Countries abstaining shall be considered as not voting.

2. When majority or special majority is required, the Participating Countries shall have the following voting weights:

	General voting weights	Oil consumption voting weights	Combined voting weights
Austria	3	1	1
Belgium	3	2	4
Canada	3	5	5

	General voting weights	Oil consumption voting weights	Combined voting weights
Denmark	3	1	8
Germany	3	8	14
Ireland	3	0	3
Italy	3	6	9
Japan	3	15	18
Luxembourg	3	0	3
The Netherlands	3	2	5
New Zealand	3	0	3
Spain	3	2	5
Sweden	3	2	5
Switzerland	3	1	4
Turkey	3	1	4
United Kingdom	3	6	9
United States	3	48	51
Total	51	100	151

3. Majority shall require 60 per cent of the total combined voting weights and 50 per cent of the general voting weights cast.

4. Special majority shall require:

(a) 60 per cent of the total combined voting weights and 39 general voting weights for:

The decision under Article 2, paragraph 2, relating to the increase in the emergency reserve commitment;

Decisions under Article 19, paragraph 3, not to activate the emergency measures referred to in Articles 13 and 14;

Decisions under Article 20, paragraph 3, on the measures referred for meeting the necessities of the situation;

Decisions under Article 23, paragraph 3, to maintain the emergency measures referred to in Articles 13 and 14;

Decisions under Article 24 to deactivate the emergency measures referred to in Articles 13 and 14.

(b) 45 general voting weights for:

Decisions under Article 19, paragraph 3, not to activate the emergency measures referred to in Article 17;

Decisions under Article 23, paragraph 3, to maintain the emergency measures referred to in Article 17;

Decisions under Article 24 to deactivate the emergency measures referred to in Article 17.

5. The Governing Board, acting by unanimity, shall decide on the necessary increase, decrease, and redistribution of the voting weights referred to in paragraph 2, as well as on amendment of the voting requirements set out in paragraphs 3 and 4 in the event that

A Country accedes to this Agreement in accordance with Article 71, or

A Country withdraws from this Agreement in accordance with Article 68, paragraph 2, or Article 69, paragraph 2.

6. The Governing Board shall review annually the number and distribution of voting weights specified in paragraph 2. and, on the basis of such review, acting by unanimity, shall decide whether such voting weights should be increased or decreased, or redistributed, or both, because a change in any Participating Country's

share in total oil consumption has occurred or for any other reason.

7. Any change in paragraph 2, 3 or 4 shall be based on the concepts underlying those paragraphs and paragraph 6.

Relations with other entities

Article 63

In order to achieve the objectives of the Program, the Agency may establish appropriate relations with non-participating countries, international organizations, whether governmental or non-governmental, other entities and individuals.

Financial arrangements

Article 64

1. The expenses of the Secretariat and all other common expenses shall be shared among all Participating Countries according to a scale of contributions elaborated according to the principles and rules set out in the Annex to the "OECD Resolution of the Council on Determination of the Scale of Contributions by Member Countries to the Budget of the Organization of December 10th, 1963. After the first year of application of this Agreement, the Governing Board shall review this scale of contributions and, acting by unanimity", shall decide upon any appropriate changes in accordance with Article 73.

2. Special expenses incurred in connection with special activities carried out pursuant to Article 65 shall be shared by the Participating Countries taking part in such special activities in such proportions as shall be determined by unanimous agreement between them.

3. The Executive Director shall, in accordance with the financial regulations adopted by the Governing Board and not later than October 1st of each year, submit to the Governing Board a draft budget including personnel requirements. The Governing Board, acting by majority, shall adopt the budget.

4. The Governing Board, acting by majority, shall take all other necessary decisions regarding the financial administration of the Agency.

5. The financial year shall begin on January 1st and end on December 31st of each year. At the end of each financial year, revenues and expenditures shall be submitted to audit.

Special activities

Article 65

1. Any two or more Participating Countries may decide to carry out within the scope of this Agreement special activities, other than activities which are required to be carried out by all Participating Countries under Chapter I to V. Participating Countries which do not wish to take part in such special activities shall abstain from taking part in such decisions and shall not be bound by them. Participating Countries carrying out such activities shall keep the Governing Board informed thereof.

2. For the implementation of such special activities, the Participating Countries concerned may agree upon voting procedures other than those provided for in Articles 61 and 62.

Implementation of the Agreement

Article 66

Each Participating Country shall take the necessary measures, including any necessary legislative measures, to implement this Agreement and decisions taken by the Governing Board.

CHAPTER X. FINAL PROVISIONS

Article 67

1. Each Signatory State shall, not later than May 1st, 1975, notify the Government of Belgium that, having complied with its constitutional procedures, it consents to be bound by this Agreement.

2. On the tenth day following the day on which at least six States holding at least 60 per cent of the combined voting weights mentioned in Article 62 have deposited a notification of consent to be bound or an instrument of accession, this Agreement shall enter into force for such States.

3. For each Signatory State which deposits its notification thereafter, this Agreement shall enter into force on the tenth day following the day of deposit.

4. The Governing Board, acting by majority, may upon request from any Signatory State decide to extend, with respect to that State, the time limit for notification beyond May 1st, 1975.

Article 68

1. Notwithstanding the provisions of Article 67, this Agreement shall be applied provisionally by all Signatory States, to the extent possible not inconsistent with their legislation, as from November 18, 1974 following the first meeting of the Governing Board.

2. Provisional application of the Agreement shall continue until:

The Agreement enters into force for the State concerned in accordance with Article 67, or

60 days after the Government of Belgium receives notification that the State concerned will not consent to be bound by the Agreement, or

The time limit for notification of consent by the State concerned referred to in Article 67 expires.

Article 69

1. This Agreement shall remain in force for a period of ten years from the date of its entry into force and shall continue in force thereafter unless and until the Governing Board, acting by majority, decides on its termination.

2. Any Participating Country may terminate the application of this Agreement for its part upon twelve months' written notice to the Government of Belgium to that effect, given not less than three years after the first day of the provisional application of this Agreement.

Article 70

1. Any State may, at the time of signature, notification of consent to be bound in accordance with Article 67, accession or at any later date, declare by notification addressed to the Government of Belgium that this Agreement shall apply to all or any of the territories for whose international relations it is responsible, or to any territories within its frontiers for whose oil supplies it is legally responsible.

2. Any declaration made pursuant to paragraph 1 may, in respect of any territory mentioned in such declaration, be withdrawn in accordance with the provisions of Article 69, paragraph 2.

Article 71

1. This Agreement shall be open for accession by any Member of the Organisation for Economic Co-operation and Development which is able and willing to meet the requirements of the Program. The Governing Board, acting by majority, shall decide on any request for accession.

2. This Agreement shall enter into force for any State whose request for accession has been granted on the tenth day following the deposit of its instrument of accession with the Government of Belgium, or on the date of entry into force of the Agreement pursuant to Article 67, paragraph 2, whichever is the later.

3. Until May 1st, 1975, accession may take place on a provisional basis under the conditions set out in Article 68.

Article 72

1. This Agreement shall be open for accession by the European Communities.

2. This Agreement shall not in any way impede the further implementation of the treaties establishing the European Communities.

Article 73

This Agreement may at any time be amended by the Governing Board, acting by unanimity. Such amendment shall come into force in a manner determined by the Governing Board, acting by unanimity and making provision for Participating Countries to comply with their respective constitutional procedures.

Article 74

This Agreement shall be subject to a general review after May 1st, 1980.

Article 75

The Government of Belgium shall notify all Participating Countries of the deposit of each notification of consent to be bound in accordance with Article 67, and of each instrument of accession, of the entry into force of this Agreement or any amendment thereto, of any denunciation thereof, and of any other declaration or notification received.

Article 76

The original of this Agreement, of which the English, French and German texts are equally authentic, shall be deposited with the Government of Belgium, and a certified copy thereof shall be furnished to each other Participating Country by the Government of Belgium.

ANNEX. EMERGENCY RESERVES

Article 1

1. Total oil stocks are measured according to the OECD and EEC definitions, revised as follows:

A. Stocks included:

Crude oil, major products and unfinished oils held
In refinery tanks.
In bulk terminals.
In pipeline tankage.
In barges.
In intercoastal tankers.
In oil tankers in port.
In inland ship bunkers.
In storage tank bottoms.
In working stocks.
By large consumers as required by law or otherwise controlled by Governments.

B. Stocks excluded:

(a) Crude oil not yet produced.
(b) Crude oil, major products and unfinished oils held
In pipelines.
In rail tank cars.
In truck tank cars.
In seagoing ships' bunkers.
In service stations and retail stores.
By other consumers.
In tankers at sea.
As military stocks.

2. That portion of oil stocks which can be credited toward each participating Country's emergency reserve commitment is its total oil stocks under the above definition minus those stocks which can be technically determined as being absolutely unavailable in even the most severe emergency. The Standing Group on Emergency Questions shall examine this concept and report on criteria for the measurement of absolutely unavailable stocks.

3. Until a decision has been taken on this matter, each Participating Country shall subtract 10 per cent from its total stocks in measuring its emergency reserves.

The Standing Group on Emergency Questions shall examine and report to the Management Committee on:

(a) the modalities of including naphtha for uses other than motor and aviation gasoline in the consumption against which stocks are measured,

(b) the possibility of creating common rules for the treatment of marine bunkers in an emergency, and of including marine bunkers in the consumption against which stocks are measured,

(c) the possibility of creating common rules concerning demand restraint for aviation bunkers,

(d) the possibility of crediting towards emergency reserve commitments some portion of oil at sea at the time of activation of emergency measures,

(e) the possibility of increasing supplies available in an emergency through savings in the distribution system.

Article 2

1. Fuel switching capacity is defined as normal oil consumption that may be replaced by other fuels in an emergency, provided that this capacity is subject to government control in an emergency, can be brought into operation within one month, and that secure supplies of the alternative fuel are available for use.

2. The supply of alternative fuel shall be expressed in terms of oil equivalent.

3. Stocks of an alternative fuel reserved for fuel switching purposes may be credited towards emergency reserve commitments insofar as they can be used during the period of self-sufficiency.

4. Stand-by production of an alternative fuel reserved for fuel switching purposes will be credited toward emergency reserve commitments on the same basis as stand-by oil production, subject to the provisions of Article 4 of this Annex.

5. The Standing Group on Emergency Questions shall examine and report to the Management Committee on

(a) the appropriateness of the time limit of one month mentioned in paragraph 1,

(b) the basis of accounting for the fuel switching capacity based on stocks of an alternative fuel, subject to the provisions of paragraph 3.

Article 3

A Participating Country may credit towards its emergency reserve commitment oil stocks in another country provided that the Government of that other country has an agreement with the Government of the Participating Country that it shall impose no impediment to the transfer of those stocks in an emergency to the Participating Country.

Article 4

1. Stand-by oil production is defined as a Participating Country's potential oil production in excess of normal oil production within its jurisdiction—

Which is subject to government control, and

Which can be brought into use during an emergency within the period of self-sufficiency.

2. The Standing Group on Emergency Questions shall examine and report to the Management Committee on

(a) the concept of and methods of measurement of stand-by oil production as referred to in paragraph 1,

(b) the appropriateness of "the period of self-sufficiency" as a time limit,

(c) the question of whether a given quantity of standby oil production is of greater value for purposes of emergency self-sufficiency than the same quantity of oil stocks, the amount of a possible credit for standby production, and the method of its calculation.

Article 5

Stand-by oil production available to a Participating Country within the jurisdiction of another country may be credited towards its emergency reserve commitment on the same basis as stand-by oil production within its own jurisdiction, subject to the provisions of Article 4 of this Annex provided that the Government of that other country has an agreement with the Government of the Participating Country that it shall impose no impediment to the supply of oil from that stand-by capacity to the Participating Country in an emergency.

Article 6

The Standing Group on Emergency Questions shall examine and report to the Management Committee on the possibility of crediting towards a Participating Country's emergency reserve commitment mentioned in Article 2, paragraph 2, of the Agreement, long term investments which have the effect of reducing the Participating Countries dependence on imported oil.

Article 7

1. The Standing Group on Emergency Questions shall examine and report to the Management Committee regarding the reference period set out in Article 2, paragraph 1, of the Agreement, in particular taking into account such factors as growth, seasonal variations in consumption and cyclical changes.

2. A decision by the Governing Board to change the definition of the reference period mentioned in paragraph 1 shall be taken by unanimity.

Article 8

The Standing Group on Emergency Questions shall examine and report to the Management Committee on all elements of Chapters I to IV of the Agreement to eliminate possible mathematical and statistical anomalies.

Article 9

The reports from the Standing Group on Emergency Questions on the matters mentioned in this Annex shall be submitted to the Management Committee by April 1st, 1975. The Management Committee shall make proposals, as appropriate, to the Governing Board, which acting by majority not later than July 1st, 1975, shall decide on these proposals, except as provided for in Article 7, paragraph 2 of this Annex.

2. Export and Import of Nuclear Equipment and Material Regulations

Regulations of the Nuclear Regulatory Commission, 10 CFR Part 110, May 19, 1978, 43 F.R. 21641

SUBPART A—GENERAL PROVISIONS

§ 110.1 Purpose and scope.

(a) These regulations prescribe procedures and standards, pursuant to the Atomic Energy Act of 1954, as amended, and Title II of the Energy Reorganization Act of 1974, as amended, for the export and import of nuclear equipment and nuclear material as set out in Appendix A.

(b) Except as provided in paragraph (c), the regulations in this part apply to all persons in the United States, including persons in Agreement States.

(c) These regulations do not apply to the export or import of nuclear equipment, material or technology by the Departments of Energy or Defense under the authority of sections 54, 57b., 64, 82, 91, and 144b. and 144c. of the Atomic Energy Act, as amended, except when the Department of Energy seeks an export license pursuant to section 111 of the Atomic Energy Act.

§ 110.2 Definitions.

As used in this part,

(a) "Agreement for cooperation" means any agreement with another nation or group of nations concluded under section 123 of the Atomic Energy Act, as amended.

(b) "Agreement State" means any State of the United States with which the Nuclear Regulatory Commission, or its predecessor, the Atomic Energy Commission, has entered into an agreement under section 274b. of the Atomic Energy Act, as amended.

(c) "Atomic Energy Act" means the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011).

(d) "Byproduct material" means radioactive material (except special nuclear material) produced by exposure to the radiation incident to the process of producing or using special nuclear material.

(e) "Classified information" means National Security Information classified pursuant to Executive Order No. 11652 or any superseding order.

(f) "Commission" means the United States Nuclear Regulatory Commission or its duly authorized representatives.

(g) "Common defense and security" means the common defense and security of the United States.

(h) "Depleted uranium" means uranium in which the isotope uranium-235 is less than 0.711 percent by weight of the total uranium present.

(i) "Deuterium" means deuterium and any deuterium compound, including heavy water, in which the ratio of deuterium atoms to hydrogen atoms exceeds 1:5000.

(j) "Effective kilograms of special material" means:

(1) For plutonium and uranium-233, their weight in kilograms;

(2) For uranium enriched 1 percent or greater in the isotope U-235, its element weight in kilograms multiplied by the square of its enrichment expressed as a decimal weight fraction; and

(3) For uranium enriched below 1 percent in the isotope U-235, its element weight in kilograms multiplied by 0.0001.

(k) "Energy Reorganization Act" means the Energy Reorganization Act of 1974, as amended (42 U.S.C. 5801).

(l) "Executive Branch" means the Departments of State, Energy, Defense, and Commerce and the Arms Control and Disarmament Agency.

(m) "Export" means export from the United States.

(n) "General license" means an export or import license effective without the filing of a specific application with the Commission or the issuance of licensing documents to a particular person.

(o) "Government agency" means any Federal department, commission, independent establishment, or corporation, wholly or partly owned by the United States and which is an instrumentality of the United States.

(p) "High-enriched uranium" means uranium enriched to 20 percent or greater in the isotope uranium-235.

(q) "Import" means import into the United States.

(r) The phrase "introduced into a hearing" means the introduction or incorporation of testimony or documentary matter into the record of a hearing.

(s) "License" means a general or specific export or import license issued pursuant to this part.

(t) "Licensee" means a person authorized by a specific or a general license to export or import nuclear equipment or material pursuant to this part.

(u) "Low-enriched uranium" means uranium enriched below 20 percent in the isotope uranium-235.

(v) "Non-nuclear weapon State" means any State not a nuclear weapon State as defined in the Treaty on the Non-Proliferation of Nuclear Weapons. "Nuclear weapon State" means any State which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to January 1, 1967.

(w) "Non-Proliferation Act" means the Nuclear Non-Proliferation Act of 1978 (Public Law 95-242).

(x) "NRC records" means any documentary material made by, in the possession of or under the control of the Commission under Federal law or in connection with the transaction of public business as evidence of any of the Commission's activities.

(y) "Nuclear equipment" means production facilities, utilization facilities, deuterium production plants, nuclear reactor fuel fabrication plants and specially designed or prepared equipment, parts and components for such facilities or plants as specified in paragraph a. through e. of Appendix A.

(z) "Nuclear grade graphite" means graphite with a boron content of less than 5 parts per million and density greater than 1.5 grams per cubic centimeter.

(aa) "Nuclear material" means special nuclear material, source material, byproduct material, deuterium and nuclear grade graphite.

(bb) "Nuclear reactor" means an apparatus, other than an atomic weapon or nuclear explosive device, designed or used to sustain nuclear fission in a self-supporting chain reaction.

(cc) "Packaging" means one or more receptacles and wrappers and their contents, excluding any special nuclear material, source material or byproduct material, but including absorbent material, spacing structures, thermal insulation, radiation shielding, devices for cooling and for absorbing mechanical shock, external fittings, neutron moderators, nonfissile neutron absorbers and other supplementary equipment.

(dd) "Participant" means a person, identified in a hearing notice or other Commission order, who takes part in a hearing conducted by the Commission under this part, including any person to whom the Commission grants a hearing or leave to intervene in an export or import licensing hearing, either as a matter of right or as a matter of discretion.

(ee) "Person" means any individual, corporation, partnership, firm, association, trust, estate, institution, group, Government agency other than the Commission; any State or political entity within a State; any foreign government or political entity of such government; and any authorized representative of the foregoing.

(ff) "Physical security" means measures to reasonably ensure that source or special nuclear material will only be used for authorized purposes and to prevent theft or sabotage.

(gg) "Production facility" means any nuclear reactor or plant specially designed or used to produce special nuclear material through the irradiation of source material or special nuclear material, the separation of isotopes or the chemical reprocessing of irradiated source or special nuclear material.

(hh) "Public Document Room" means the place at 1717 H Street NW., Washington, D.C., where public records of the Commission are ordinarily available for inspection.

(ii) "Public health and safety" means the public health and safety of the United States.

(jj) "Retransfer" means the transport from one foreign country to another of nuclear equipment or nuclear material previously exported from the United States, or of special nuclear material produced through the use of source material or special nuclear material previously exported from the United States.

(kk) "Sealed source" means any special nuclear material or byproduct material encased in a capsule designed to prevent leakage or escape of that nuclear material.

(ll) "Secretary" means the Secretary of the Commission.

(mm) "Source material" means:

(1) Uranium or thorium, other than special nuclear material; or

(2) Ores which contain by weight 0.05 percent or more of uranium or thorium, or any combination of these.

(nn) "Special nuclear material" means plutonium, uranium-233 or uranium enriched above 0.711 percent by weight in the isotope uranium-235.

(oo) "Specific license" means an export or import license issued to a named person upon an application filed pursuant to this part.

(pp) "Transfer" means the transfer of possession from one person to another person.

(qq) "Transport" means the physical movement of material from one location to another.

(rr) "United States", when used in a geographical sense, includes all territories and possessions of the United States, the Canal Zone, and Puerto Rico.

(ss) 'Utilization facility" means any nuclear reactor, other than one that is a production facility, and the following major components of a nuclear reactor:

(1) Pressure vessels designed to contain the core of a nuclear reactor;

(2) Primary coolant pumps;

(3) Fuel charging or discharging machines; and

(4) Control rods.

A utilization facility does not include the steam turbine generator portion of a nuclear power plant.

§ 110.3 Interpretations.

Except as authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part other than a written interpretation by the Commission's General Counsel is binding upon the Commission.

§ 110.4 Communications.

Unless otherwise specified in this part, all communications concerning this part should be addressed to the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or delivered in person to the Commission's offices at 1717 H Street NW., Washington, D.C., or 7735 Old Georgetown Road, Bethesda, Md.

§ 110.5 License requirements.

Except as provided in Subpart B, no person may export or import any nuclear equipment or nuclear material other than as authorized by a specific or general license issued pursuant to this part.

§ 110.6 Retransfers.

(a) No person may retransfer any nuclear equipment or nuclear material unless:

(1) At the time of the original export, the equipment or material could have been exported to the new country of ultimate destination under an exemption from licensing requirements pursuant to Subpart B or a general license pursuant to Subpart C; or

(2) The retransfer has been specifically authorized by the Department of Energy in response to a request submitted by the original license applicant or by the foreign consignee or government.

(b) Requests for authority to retransfer shall be sent to the Department of Energy, Office of Nuclear Affairs, International Programs, Washington, D.C. 20545.

SUBPART B—EXEMPTIONS

§ 110.10 General provisions.

(a) *Specific exemptions.* Upon application by any person or upon its own initiative, the Commission may grant an exemption from the regulations in this part, if it determines that the exemption is authorized by law, is not inimical to the common defense and security and does not constitute an unreasonable risk to the public health and safety.

(b) *Exemptions from licensing requirements.*[1] Exemptions from licensing requirements pursuant to sections 57d, 62 and 81 of the Atomic Energy Act will be granted only after coordination with the Executive Branch and after completion of rulemaking proceedings pursuant to Subpart L of this part.

§ 110.11 Import of nuclear equipment, source material and byproduct material.

Any person is exempt from the requirements for an import license to the extent that he imports any nuclear equipment, source material or byproduct material which he is authorized to possess under an exemption from licensing requirements or a specific or general license issued by the Commission or an Agreement State.

§ 110.12 Intergovernmental cooperative activities.

Government agencies are exempt from the requirements of section 53 of the Atomic Energy Act and from the regulations in this part to the extent that they export, at any one time, up to 3 grams of any type of special nuclear material for use in activities authorized by an intergovernmental cooperative agreement between the United States and a foreign nation, group of nations or international organization. The exporting government agency shall notify the Commission of the destination and purpose of such exempted exports.

§ 110.13 Export of byproduct material.

Any person is exempt from the requirements of section 81 of the Atomic Energy Act and from the regulations in this part to the extent that such person exports the following:

(a) Timepieces or hands or dials containing not more than the following specified quantities of byproduct material and not exceeding the following specified levels of radiation:

(1) 25 millicuries of tritium per timepiece;

(2) 5 millicuries of tritium per hand;

(3) 15 millicuries of tritium per dial (bezels will be considered as part of dial);

(4) 100 microcuries of promethium-147 per watch or 200 microcuries of promethium-147 per any other timepiece;

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[1] The granting of an exemption does not relieve any person from complying with the regulations of other Government agencies applicable to exports or imports under their authority.

(5) 20 microcuries of promethium-147 per watch hand or 40 microcuries of promethium-147 per other timepiece hand;

(6) 60 microcuries of promethium-147 per watch dial or 120 microcuries of promethium-147 per other timepiece dial (bezels will be considered as part of the dial);

(7) The levels of radiation from hands and dials containing promethium-147, when measured through 50 milligrams per square centimeter of absorber, will not exceed 0.1 millirad per hour at 10 centimeters from any surface for wrist watches; 0.1 millirad per hour at 1 centimeter from any surface for pocket watches; and 0.2 millirad per hour at 10 centimeters from any surface for any other timepiece;

(b) Lock illuminators containing not more than 15 millicuries of tritium or not more than 2 millicuries of promethium-147 installed in automobile locks. The levels of radiation from each lock illuminator containing promethium-147 will not exceed 1 millirad per hour at 1 centimeter from any surface when measured through 50 milligrams per square centimeter of absorber;

(c) Precision balances containing not more than 1 millicurie of tritium per balance or not more than 0.5 millicurie of tritium per balance part;

(d) Automobile shift quadrants containing not more than 25 millicuries of tritium;

(e) Marine compasses containing not more than 750 millicuries of tritium gas and other marine navigational instruments containing not more than 250 millicuries of tritium gas;

(f) Thermostat dials and pointers containing not more than 25 millicuries of tritium per thermostat.

(g) Electron tubes,[2] provided that no tube has a level of radiation exceeding 1 millirad per hour at 1 centimeter from any surface, when measured through 7 milligrams per square centimeter of absorber, and that no tube contains more than one of the following specified quantities of byproduct material:

(1) 150 millicuries of tritium per microwave received protector tube or 10 millicuries of tritium per any other electron tube;

(2) 1 microcuries of cobalt-60;

(3) 5 microcuries of nickel-63;

(4) 30 microcuries of krypton-85;

(5) 5 microcuries of cesium-137; or

(6) 30 microcuries of promethium-147; and

(h) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, byproduct material not exceeding the applicable quantity set forth in § 30.71, Schedule B, of this chapter;

(i) Synthetic plastic resins containing scandium-46 which are designed for sand-consolidation in oil wells and which have been manufactured or initially transferred in accordance with a specific license issued pursuant to § 32.17 of this chapter or equivalent regulations of an Agreement State;

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[2] For purposes of this paragraph, "electron tubes" include spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pickup tubes, radiation detection tubes, and any other completely sealed tube that is designed to conduct or control electrical currents.

(j) Tritium, krypton-85 or promethium-147 in self-luminous products manufactured, processed, produced or initially transferred in accordance with a specific license issued pursuant to § 32.22 of this chapter, provided that the tritium, krypton-85 or promethium-147 is not used in products primarily for frivolous purposes or in toys or adornments;

(k) Byproduct material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards and manufactured, processed, produced or initially transferred in accordance with a specific license issued pursuant to § 32.26 of this chapter; or

(l) Spark gap irradiators containing not more than 1 microcurie of cobalt-60 per spark gap irradiator for use in electrically ignited fuel oil burners having a firing rate of at least 3 gallons per hour (11.4 liters per hour).

SUBPART C—GENERAL LICENSES

§ 110.20 General.

(a) In response to a petition or upon its own initiative, the Commission may issue a general license for the export or import of any nuclear equipment or material provided it determines that any exports or imports made pursuant to the general license will not be inimical to the common defense and security or constitute an unreasonable risk to the public health and safety.

(b) General licenses will be issued only after coordination with the Executive Branch and after completion of rule making proceedings pursuant to Subpart L of this part.

(c) General licenses do not relieve any person from complying with the regulations of other Government agencies applicable to exports or imports under their authority.

§ 110.21 Export of nuclear equipment. [Reserved]

§ 110.22 Export of special nuclear material. [Reserved]

§ 110.23 Export of source material.

The following general licenses are hereby issued authorized any person to export:

(a) At any time, up to 1 kilogram of source material to any country, except Southern Rhodesia or countries listed in § 110.27, provided that no more than 100 kilograms per year may be exported by any one person to any one country.

(b) Thorium in incandescent gas mantles to any country, except Southern Rhodesia or countries listed in § 110.27.

(c) Depleted uranium in the form of counterweights installed in aircraft, rockets, projects or missiles to any country, except Southern Rhodesia or countries listed in § 110.27, provided that such counterweights have been manufactured under a specific license issued by the Commission or the Atomic Energy Commission and have been impressed with the following statement, clearly legible after plating: "Depleted Uranium".

(d) Thorium contained in finished aircraft engine parts containing nickel-thoria alloy to any country, except Southern Rhodesia or countries listed in § 110.27, provided that:

(1) The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and

(2) The thorium content in the nickel-thoria alloy does not exceed 4 percent by weight.

(e) Depleted uranium when fabricated as shielding and contained in radiographic exposure or teletherapy devices, X-ray units, radioactive thermoelectric generators or packaging for the transportation of radioactive materials, in quantities up to 1,000 kilograms per shipment to any country, except Southern Rhodesia or countries listed in § 110.27.

(f) Depleted uranium when fabricated as shielding and contained in radiographic exposure or teletherapy devices, in quantities not to exceed 500 pounds per device, to Southern Rhodesia, to the extent that such devices are for use in medical diagnosis or therapy.

(g) Uranium or thorium in any chemical mixture, compound, solution or alloy in which the uranium or thorium is by weight less than 0.05 percent, to any country, except Cambodia, Cuba, North Korea, Southern Rhodesia or Vietnam.

§ 110.24 Export of byproduct material.

The following general licenses are hereby issued authorizing any person to export:

(a) The following to any country, except Southern Rhodesia or countries listed in § 110.27:

(1) Byproduct material having an atomic number from 3 to 83, inclusive; or

(2) Tritium contained in luminous safety devices installed in aircraft as generally licensed items pursuant to § 31.7 of this chapter.

(b) Byproduct material having an atomic number from 3 to 83, inclusive, to Southern Rhodesia, to the extent that the byproduct material is contained in medicinals or pharmaceutical preparations or in devices, applicators, or appliances designed for use in medical diagnosis or therapy.

(c) 5,000 curies of tritium and 5,000 curies of polonium-210 in a calendar quarter to any country, except Southern Rhodesia, Poland, or Rumania or countries listed in § 110.27, provided that no more than 1,000 curies of tritium may be exported by any person to any one country in a calendar quarter; that no more than 100 curies of tritium may be exported by any person in a single shipment under this general license; and that the material is in one or more of the following forms or products:

(1) Tritium activated luminous paint;

(2) Tritium labeled organic compounds;

(3) Tritiated accelerator targets;

(4) Polonium-210 static eliminators;

(5) Polonium-210 neutron sources;

(6) Tritium or Polonium-210 calibration standards;

(7) Luminescent light sources;

(8) Tritium sources for chromatography instruments;

(9) Electron tubes; or

(10) Tritium as a contaminant of helium-3 in a concentration not to exceed 2.5 millicuries of tritium per liter of helium-3.

(d) Byproduct material as specified in paragraph (c) to southern Rhodesia, to the extent that the byproduct material is contained in medicinals or pharmaceutical preparations or in devices, applicators, or appliances designed for use in medical diagnosis or therapy.

(e) Americium-241 to any country, except Southern Rhodesia, Poland, Rumania or countries listed in § 110.27.

(f) Byproduct material having an atomic number from 3 to 83, inclusive, in labeled organic or inorganic compounds, in quantities up to 1 curie per shipment, to any country listed in § 110.27, except North Korea, Vietnam, Cambodia, Cuba, and Southern Rhodesia.

(g) Tritium in labeled organic compounds in quantities up to 100 curies per shipment, to Rumania, Poland, and any country listed in § 110.27, except North Korea, Vietnam, Cambodia, Cuba, and Southern Rhodesia.

§ 110.25 Export of deuterium.

A general license is hereby issued authorizing any person to export at any one time up to 100 liters of deuterium at standard temperature and pressure (90 grams of heavy water) to any country, except Southern Rhodesia or countries listed in § 110.27.

§ 110.26 Export of nuclear grade graphite.

A general license is hereby issued authorizing any person to export at any one time up to 100 kilograms of nuclear grade graphite to any country, except Southern Rhodesia or countries listed in § 110.27, provided that no more than 2,000 kilograms per year may be exported by any one person to any one country.

§ 110.27 Restricted destinations.

(a) Albania, (b) Bulgaria, (c) Cambodia, (d) Cuba, (e) Czechoslovakia, (f) Estonia, (g) German Democratic Republic (including East Berlin), (h) Hungary, (i) Laos, (j) Latvia, (k) Lithuania, (l) North Korea, (m) Outer Mongolia, (n) People's Republic of China, (o) Union of Soviet Socialist Republics, and (p) Vietnam.

SUBPART D—APPLICATIONS FOR SPECIFIC LICENSES

§ 110.30 Filing a license application.

(a) A license application shall be filed with the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or delivered in person to the Commission's offices at 1717 H Street NW., Washington, D.C. or 7735 Old Georgetown Road, Bethesda, Md.

(b) Except for production or utilization facilities, export license applications should be filed on form NRC-7.

(c) An application for a license to export a production or utilization facility or to import nuclear equipment or nuclear material should be filed by letter.

(d) An applicant may file a consolidated license application involving two or more proposed exports of similar equipment or material destined for the same country, provided all the exports will be made within 2 years, or other time period as approved by the Commission, and under reasonably similar circumstances.

(e) If an import license application involves equipment or material which is intended for subsequent export, the applicant may simultaneously apply for the appropriate export license. The issuance of an import license does not imply approval of a subsequent export.

(f) Information contained in a previous application may be incorporated by reference.

§ 110.31 General requirements for an export license application.

Each application for an export license shall state:

(a) Name and U.S. address of applicant;

(b) Name and address of supplier of equipment or material, if different from the applicant;

(c) Name and address of ultimate consignee(s);

(d) Name and address of intermediate consignee(s);

(e) Date of proposed first shipment·

(f) Date of proposed completion of final shipment;

(g) Contractual delivery dates, if established;

(h) Proposed expiration date of export licen[illegible] and

(i) End-use of material or equipment by all consignees, intermediate and ultimate, with sufficient detail to permit accurate evaluation of the justification for the proposed export.

§ 110.32 Additional requirements for a nuclear equipment export license application.

An application for a license to export nuclear equipment shall state the following, in addition to the general information specified in § 110.31:

(a) General description of the equipment;

(b) For nuclear reactors, the design power level in thermal or electrical watts;

(c) Name of installation, if known, in which the equipment is to be used;

(d) Location where the equipment is to be used;

(e) Date when equipment is needed abroad;

(f) Total dollar value of all items to be exported under the requested license; and

(g) A list of the items proposed to be exported. Such list need only identify the items by the categories listed in paragraphs a. through e. of appendix A.

§ 110.33 Additional requirements for a nuclear material export license application.

Each application for a license to export nuclear material shall state the following, in addition to the general requirements in § 110.31:

(a) The applicable contract number, if known, of any material supplied under a Department of Energy enrichment, lease, or sale contract;

(b) Where materials are intended for use in production or utilization facility, estimated date of first use, by ultimate or intermediate consignee;

(c) Chemical and physical form, including, for enriched uranium, the weight percentage of isotopic enrichment, and, for plutonium, the sum of the percentages of Pu-239 content and Pu-241 content;

(d) Quantity in grams or kilograms (curies for byproduct material) of: (1) the material in the form exported, (2) any contained uranium or plutonium, and (3) the contained U-235 in contained uranium; and

(e) If known, the country of origin of source and special nuclear material including the country where any special nuclear material was produced.

§ 110.34 Requirements for an import license application.

Each application for an import license shall state:

(a) Name and U.S. address of applicant;

(b) Country and installation from which the nuclear equipment or material is being imported;

(c) Name and address of supplier of the nuclear equipment or material;

(d) Destination and ultimate use of the nuclear equipment or material;

(e) Date of proposed first shipment;

(f) Date of proposed completion of final shipment;

(g) Chemical and physical form of nuclear material, including, for enriched uranium, the weight percentage of enrichment and, for plutonium, the sum of the percentages of Pu-239 content and Pu-241 content;

(h) Quantity in grams or kilograms of: (1) the nuclear material in the form imported, (2) any contained uranium or plutonium, and (3) the contained U-235 in enriched uranium;

(i) Mode of transport of nuclear material and package identification (including IAEA Certificate of Competent Authority number); and

(j) If known, the country or orgin of nuclear material including the country where any special nuclear material was produced.

§ 110.35 Further information from a license applicant.

(a) The Commission may require further information from the license applicant if necessary to complete review of the application.

(b) Each applicant shall file an amendment to his license application whenever there is any substantive change in the information described in his application.

§ 110.36 Withdrawal of a license application.

(a) An applicant may withdraw his application at any time.

(b) An applicant shall withdraw an application when it is superseded by a new application or when he no longer intends to use his license if issued.

(c) The withdrawal of a license application does not authorize the removal of any NRC record from Commission files.

SUBPART E—REVIEW OF LICENSE APPLICATIONS

§ 110.40 Commission review.

(a) Immediately after receipt of a license application, the Commission will initiate its licensing review and, to the maximum extent feasible, will expeditiously process the application concurrently with review by the Executive Branch.

(b) License applications for export of the following will be reviewed by the Commissioners;

(1) Production and utilization facilities;

(2) One effective kilogram or more of special nuclear material, except for routine export license applications for reloads of low-enriched uranium fuel for use in power reactors with respect to which a previous export license to receive fuel has been issued;

(3) 10,000 kilograms or more of source material;

(4) 1,000 kilograms or more of heavy water or nuclear grade graphite;

(5) Any other license application determined by the staff or any Commission.

(c) If the Commission has not completed action on a license application within 60 days after receipt of the Executive Branch judgment, as provided for in § 110.41, or the license application when an Executive Branch judgment is not required, it will inform the applicant in writing of the reason for delay and, as appropriate, provide followup reports.

§ 110.41 Executive Branch review.

(a) Except as provided in paragraph (d), the Commission will promptly forward a properly completed export license application to the Executive Branch.

(b) The Executive Branch will be requested to:

(1) Provide its judgment as to whether the proposed export would be inimical to the common defense and security, along with supporting rationale and information.

(2) Where applicable, confirm that the proposed export would be under the terms of an agreement for cooperation; and

(3) Address the extent to which the export criteria in § 110.42 are met, if applicable, and the extent to which the recipient country or group of countries has adhered to the provisions of any applicable agreement for cooperation.

(c) The Commission may request the Executive Branch to address specific concerns and provide additional data and recommendations as necessary.

(d) The Executive Branch has informed the Commission that exports of nuclear equipment and nuclear material in the following categories would not be inimical to the common defense and security because they lack significance for nuclear explosive purposes and will not normally be reviewed by the Executive Branch:

(1) Byproduct material: all types and quantities, except tritium in quantities exceeding 100 curies;

(2) Source material: all exports for non-nuclear end-uses, and exports of less than 250 kilograms for nuclear end uses;

(3) Low-enriched uranium: all exports of 1 kilogram or less of contained U-235;

(4) High-enriched uranium: 0.040 effective kilograms or less;

(5) Plutonium and U-235. 10 grams or less;

(6) Deuterium: 1,000 liters or less (900 grams or less of heavy water);

(7) Nuclear grade graphite: 100 kilograms or less.

(8) Nuclear equipment: all exports with a value under $10,000.

This paragraph does not apply to exports with end-uses related to isotope separation, chemical reprocessing, heavy water production, plutonium handling, advanced reactors and initial export of nuclear equipment to foreign nuclear reactors, and is subject to other limitations which the Executive Branch or the Commission may from time to time, deem necessary.

§ 110.42 Export licensing criteria.

(a) The review of specific license applications for the export for peaceful nuclear uses of production or utilization facilities, special nuclear material and source material will be governed by the following criteria:

(1) IAEA safeguards as required by Article III(2) of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) will be applied with respect to any such facilities or material proposed to be exported, to any such material or facilities previously exported and subject to the applicable agreement for cooperation, and to any special nuclear material used in or produced through the use thereof;

(2) No such facilities or material proposed to be exported or previously exported and subject to the applicable agreement for cooperation, and no special nuclear material produced through the use of such facilities or material, will be used for any nuclear explosive device;

(3) Adequate physical security measures will be maintained with respect to such facilities or material proposed to be exported and to any special nuclear material used in or produced through the use thereof. Physical security measures will be deemed adequate if such measures provide a level of protection equivalent to that set forth in § 110.43;

(4) No such facilities or material proposed to be exported, and no special nuclear material produced through the use of such material, will be retransferred to the jurisdiction of any other country or group of countries unless the prior approval of the United States is obtained for such retransfer;

(5) No such material proposed to be exported and no special nuclear material produced through the use of such material will be reprocessed and no irradiated fuel elements containing such material removed from a reactor will be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration; and

(6) With respect to exports of such facilities or material to nonnuclear weapon states, for which the export license application is filed after September 10, 1979, or which will occur after March 10, 1980, IAEA safeguards will be maintained with respect to all peaceful nuclear activities in, under the jurisdiction of, or carried out under the control of such state at the time of the export. This criterion will not be applied if the Commission has been notified by the President in writing that failure to approve an export because this

criterion has not been met would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, in which case the provisions of section 128 of the Atomic Energy Act regarding Congressional review will apply.

(b) The review of license applications for the export of nuclear equipment, other than a production or utilization facility, and for the export of deuterium and nuclear grade graphite will be governed by the following criteria:

(1) IAEA safeguards as required by Article III(2) of the NPT will be applied with respect to such equipment or material;

(2) No such equipment or material will be used for any nuclear explosive device or for research on or development of any nuclear explosive device; and

(3) No such equipment or material will be retransferred without the prior approval of the United States.

§ 110.43 Physical security standards.

(a) Commission determinations on the adequacy of physical security programs in recipient countries for Category I quantities of nuclear material (see Appendix C) will be based upon:

(1) Review of the physical security program established by the recipient country and of the implementation of the national requirements as considered through country visits and other information exchanges to ensure that the physical security measures provide as a minimum protection comparable to that set forth in International Atomic Energy Agency publication INFCIRC/225/Rev. 1 entitled "The Physical Protection of Nuclear Material" (INFCIRC/225), which is incorporated by reference in this part.[3]

(2) Written assurances from the recipient country or group of countries that physical security measures providing as a minimum protection comparable to that set forth in INFCIRC/225 will be maintained.

(3) The Commission's determinations may be based upon a countrywide finding rather than upon case-by-case analysis. The Commission will reexamine a determination whenever there are changed circumstances within a country that might reduce the effectiveness of its physical security program.

(b) Commission determinations on the adequacy of physical security programs in recipient countries for Category II and III quantities of material will be based on available relevant information and written assurances from the recipient country or group of countries that physical security measures providing as a minimum protection comparable to that set forth in INFCIRC/225 will be maintained.

(c) Commission determinations on the adequacy of physical security programs in recipient countries for exported facilities will be made in accordance with the categories of material in use or in storage at the exported facilities and will be based on available relevant information and written assurances from the recipient country or group of countries that physical security measures providing as a minimum protection comparable to that set forth in INFCIRC/225 will be maintained.

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[3] This incorporation by reference was approved by the Director of the Federal Register on May 3, 1978. Copies of INFCIRC/225 may be obtained from the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and are available for inspection in the Commission Public Document Room. A copy is on file in the library of the Federal Register.

§ 110.44 Issuance or denial of licenses.

(a) The Commission will issue an export license if it has been notified by the State Department that it is the judgment of the Executive Branch that the proposed export will not be inimical to the common defense and security, and

(1) Finds, based upon a reasonable judgment of the assurances provided and other information available to the Federal Government, that;

(i) The applicable criteria in § 110.42, or their equivalent, are met, provided that failure to meet the provisions of § 110.42(a) (4) and (5) shall not prevent continued cooperation under an agreement for cooperation concluded pursuant to section 124 of the Atomic Energy Act if the Secretary of State notifies the Commission, that the affected country or group of countries has agreed to negotiations as called for in section 404(a) of the Non-Proliferation Act and, if after March 10, 1980, that the President has provided an additional exemption pursuant to section 126a of the Atomic Energy Act;

(ii) The proposed export would not be inimical to the common defense and security or constitute an unreasonable risk to the public health and safety; and

(iii) Any proposed export of a production or utilization facility or special nuclear material would be under the terms of an agreement for cooperation; or,

(2) Finds that there are no material changed circumstances associated with an export license application from those existing at the time of issuance of a prior license to the same country, if the prior license was issued pursuant to the other procedures in this part.

(b) If, after receiving the Executive Branch judgment that the issuance of a proposed export license will not be inimical to the common defense and security, the Commission does not issue the proposed license on a timely basis because it is unable to make the statutory determinations required under the Atomic Energy Act, the Commission will publicly issue a decision to that effect, and will submit the license application to the President. The Commission's decision will include an explanation of the basis for the decision and any dissenting or separate views.

(c) After receipt of an Executive Branch judgment which does not recommend approval, the Commission may deny or return without action the applicable license application. The applicant will be notified in writing of the reason for denial or proposed denial, or the reason the application is being returned without action.

(d) The Commission will issue an import license if it determines that the proposed import would not be inimical to the common defense and security or constitute an unreasonable risk to the public health and safety.

§ 110.45 Conduct resulting in termination of nuclear exports.

(a) Except as provided in paragraph (c), no license will be issued to export nuclear equipment or material to any non-nuclear weapon state that is found by the President to have, after March 10, 1978:

(1) Detonated a nuclear explosive device;

(2) Terminated or abrogated IAEA safeguards;

(3) Materially violated an IAEA safeguards agreement; or

(4) Engaged in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and failed to take steps which represent sufficient progress toward terminating such activities.

(b) Except as provided in paragraph (c), no license will be issued to export nuclear equipment or material to any country or group of countries that is found by the President to have, after March 10, 1978:

(1) Materially violated an agreement for cooperation with the United States or the terms of any other agreement under which nuclear equipment or material has been exported;

(2) Assisted, encouraged or induced any non-nuclear weapon state to engage in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and failed to take steps which represent sufficient progress toward terminating such assistance, encouragement or inducement; or

(3) Entered into an agreement for the transfer of reprocessing equipment, materials or technology to the sovereign control of a non-nuclear weapon state, except in connection with an international fuel cycle evaluation in which the United States is a participant or pursuant to an international agreement or understanding to which the United States subscribes.

(c) If, pursuant to section 129 of the Atomic Energy Act, the President waives the requirement for the termination of exports to a country described in paragraph (a) or (b) after determining in writing that the cessation of exports would seriously prejudice the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, the Commission may issue licenses if other applicable statutory provisions are met.

SUBPART F—LICENSE TERMS AND RELATED PROVISIONS

§ 110.50 Terms.

(a) General and specific licenses.

(1) Each license is subject to all applicable provisions of the Atomic Energy Act and to all applicable rules, regulations, decisions and orders of the Commission.

(2) Each license is subject to amendment, suspension, revocation or incorporation of separate conditions when required by amendments of the Atomic Energy Act or other applicable law, or by other rules, regulations, decisions or orders issued in accordance with the terms of the Atomic Energy Act or other applicable law.

(3) Each license authorizes export or import only and does not authorize any person to receive title to, acquire, receive, possess, deliver, use or tranfer nuclear equipment or material.

(4) Each nuclear material license authorizes the export or import of only the nuclear material and acoompanying packaging and fuel element hardware.

(5) No nuclear equipment license confers authority to export or import nuclear material.

(6) Each nuclear equipment export license authorizes the export of only those items required for use in the foreign nuclear installation for which the items are intended.

(7) A licensee shall not proceed to export or import and shall notify the Commission promptly if he knows or has reason to believe that the packaging requirement of Part 71 of this chapter have not been met.

(b) Specific licenses. (1) Each specific license will have an expiration date.

(2) A licensee may export or import only for the purpose stated in his license application, except when any nuclear equipment exported pursuant to his license is scrapped or otherwise rendered unsuitable for any nuclear related end use.

(3) A licensee shall promptly return any license which is completed, expired, revoked or unused (or partially used and not intended to be used further) to the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5) A licensee authorized to export or import special nuclear material is responsible for compliance with the physical protection requirements of Part 73 of this chapter, unless a domestic licensee of the Commission has assumed that responsibility and the Commission has been so notified.

(6) A license may be transferred assigned or disposed of to another person only with the approval of the Commission by license amendment.

§ 110.51 Amendment and renewal of licenses.

(a) A licensee may submit a request to renew his license or to amend any part of his license, except that changes in the value of nuclear equipment already authorized for export do not require a license amendment.

(b) If a licensee submits a renewal request at least 30 days prior to the license's scheduled expiration date, the license will remain valid until the Commission has acted on his request.

(c) The Commission will review requests for amendments using, as appropriate, the same procedures and standards as for original license applications.

§ 110.52 Revocation, suspension, and modification.

(a) A license may be revoked, suspended, or modified for a condition which would warrant denial of the original license application.

(b) The Commission may require further information from a licensee to determine whether a license should be revoked, suspended, or modified.

(c) Except when the common defense and security or public health and safety requires otherwise, no license will be revoked, suspended, or modified before the licensee is informed in writing of the grounds for such action and afforded the opportunity to reply and be heard under procedures patterned on those in subpart J.

§ 110.53 United States address, records, and inspections.

(a) Each licensee shall have an office in the United States where papers may be served and where records required by the Commission will be maintained.

(b) Each licensee shall maintain records concerning his exports or imports for 5 years after each export or import, except that by product material records shall be maintained for 2 years.

(c) Each licensee shall permit the Commission to inspect his records, premises, and activities pertaining to his exports and imports when necessary to fulfill the requirements of the Atomic Energy Act.

SUBPART G—VIOLATIONS AND ENFORCEMENT

§ 110.60 Violations.

(a) A licensee who violates a provision of the Atomic Energy Act or title II of the Energy Reorganization Act or of any rule, regulations, license, or order promulgated under these Acts may be guilty of a crime, and, upon conviction, may be punished by fine and imprisonment as provided by law;

(b) An injuction or other court order may be obtained to prohibit any such violation.

(c) A court order may be obtained for payment of a civil penalty imposed pursuant to section 234 of the Atomic Energy Act.

(d) A violation may result in the revocation, suspension, or modification of a license.

§ 110.61 Notice of violation.

(a) Before instituting any enforcement action the Commission will serve on the licensee written notice of violation, except as provided in paragraph (d).

(b) The notice will state the alleged violation; require the licensee to respond in writing, within 20 days or other specified time; and may also require the licensee to state the corrective steps taken or to be taken and the date when full compliance will be achieved.

(c) The notice may provide that, if an adequate and timely reply is not received, an order to show cause may be issued pursuant to § 110.62 or a proceeding instituted to impose a civil penalty pursuant to § 110.64.

(d) The notice may be omitted and an order to show cause issued when the Commission determines that the violation is willful or that the public health, safety, or interest so requires.

§ 110.62 Order to show cause.

(a) In response to an alleged violation, described in § 110.60, the Commission may institute a proceeding to revoke, suspend, or modify a license by issuing an order to show cause:

(1) Stating the alleged violation and proposed enforcement action; and

(2) Informing the licensee of his right, within 20 days or other specified time, to file a written answer and demand a hearing.

(b) An answer consenting to the proposed enforcement action shall constitute a waiver by the licensee of a hearing and of all rights to seek further Commission or judicial review.

(c) The order to show cause may be omitted and an order issued to revoke, suspend, or modify the license in cases where the Commission determines that the violation is willful or that the public health, safety, or interest so requires.

§ 110.63 Order for revocation, suspension, or modification.

(a) In response to an alleged violation described in § 110.60, the Commission may revoke, suspend, or modify a license by issuing an order:

(1) Stating the violation and the effective date of the proposed enforcement action; and

(2) Informing the licensee of his right, within 20 days or other specified time, to file a written answer and demand a hearing.

(b) If an answer is not filed within the time specified, the enforcement action will become effective and permanent as proposed.

(c) If a timely answer is filed, the Commission, after considering the answer, will issue an order dismissing the proceeding, staying the effectiveness of the order or taking other appropriate action.

(d) The order may be made effective immediately, with reasons stated, pending further hearing and order, when the Commission determines that the violation is willful or that the public health, safety, or interest so requires.

§ 110.64 Civil penalty.

(a) In response to a violation, the Commission may institute a proceeding to impose a civil penalty under section 234 of the Atomic Energy Act by issuing a notice to the licensee:

(1) Stating the alleged violation and the amount of the proposed penalty;

(2) Informing the licensee of his right, within 20 days or other specified time, to file a written answer; and

(3) Advising that a delinquent payment for a subsequently imposed penalty may be referred to the Attorney General for collection pursuant to section 234c. of the Atomic Energy Act.

(b) If an answer is not filed within the time specified, the Commission will issue an order imposing the proposed penalty.

(c) If a timely answer is filed, the Commission, after considering the answer, will issue an order dismissing the proceeding or imposing a penalty subject to any required hearing.

(d) If an order imposing a civil penalty is issued, the licensee may request a hearing within 20 days or other specified time.

(e) Except when the matter has been referred to the Attorney General for collection, payment of penalties shall be made by check, draft, or money order payable to the Treasurer of the United States, and mailed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(f) An enforcement action to impose a civil penalty will not itself revoke, modify, or suspend any license under this part.

§ 110.65 Settlement and compromise.

At any time after issuance of an order for any enforcement action under this subpart, an agreement may be entered into for settlement of the proceeding or compromise of a penalty. Upon approval by the Commission, or presiding officer if a hearing has been requested, the terms of the settlement or compromise will be embodied in the order disposing of the enforcement action.

§ 110.66 Enforcement hearing.

(a) If the licensee demands a hearing, the Commission will issue an order specifying the time and place.

(b) A hearing pursuant to this subpart will be conducted under the procedures in subpart G of Part 2.

SUBPART H—PUBLIC NOTIFICATION AND AVAILABILITY OF DOCUMENTS AND RECORDS

§ 110.70 Public notice of receipt of an application.

(a) The Commission will notice the receipt of each export or import license application by placing a copy in the Public Document Room.

(b) The Commission will also notice in the FEDERAL REGISTER, receipt of applications for:

(1) Production and utilization facilities;

(2) One effective kilogram or more of special nuclear material; and

(3) 10,000 kilograms or more of source material, heavy water, or nuclear grade graphite.

(c) Periodic lists of applications received may be obtained upon request addressed to the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

§ 110.72 Availability of documents in the Public Document Room.

The Commission will notice the withdrawal of an application by placing a copy of the withdrawal request in the Public Document Room.

Unless exempt from disclosure under part 9 of this chapter, the following documents pertaining to each license application and license will be made available in the Public Document Room:

(a) The license application and any requests for amendments;

(b) Commission correspondence with the applicant or licensee;

(c) FEDERAL REGISTER notices;

(d) The Commission letter requesting Executive Branch views;

(e) Correspondence from the State Department with Executive Branch views;

(f) Correspondence from foreign governments and international organizations;

(g) Filings pursuant to subpart I and Commission and Executive Branch responses, if any;

(h) If a hearing is held, the hearing record and decision;

(i) A statement of staff conclusions; and

(j) The license, requests for license amendments and amendments.

§ 110.73 Availability of NRC records.

(a) Commission records under this part will be made available to the public only in accordance with part 9 of this chapter.

(b) Proprietary information provided under this part may be protected under part 9 and § 2.790 (b), (c), and (d) of this chapter.

Subpart I—Public Participation Procedures Concerning License Application

§ 110.80 Basis for hearings.

The procedures in this part will constitute the exclusive basis for hearings on export license applications.

§ 110.81 Written comments.

(a) The Commission encourages written comments from the public regarding export and import license applications. The Commission will consider and, if appropriate, respond to these comments.

(b) If possible, these comments should be submitted within 30 days after public notice of receipt of the application and addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Branch.

(c) The Commission will provide the applicant with a copy of the comments and, if appropriate, a reasonable opportunity for response.

§ 110.82 Hearing request or intervention petition.

(a) A person may request a hearing or petition for leave to intervene on a license application.

(b) Hearing requests and intervention petitions shall:

(1) State the name, address and telephone number of the requestor or petitioner;

(2) Set forth the issues sought to be raised;

(3) Explain why a hearing or an intervention would be in the public interest and how a hearing or intervention would assist the Commission in making the determinations required by section 53, 57c, 63, 64, 69, 81, 82, 103, 104, 109, 126, 127, or 128 of the Atomic Energy Act, as appropriate;

(4) Specify, when a person asserts that his interest may be affected, both the facts pertaining to his interest and how it may be affected, with particular reference to the factors in § 110.84.

(c) Hearing requests and intervention petitions will be considered timely only if filed not later than:

(1) 30 days after notice of receipt in the Federal Register, for those applications published in the Federal Register.

(2) 15 days after notice of receipt in the Public Document Room, for all other applications; or

(3) Such other time as may be provided by the Commission.

§ 110.83 Answers and replies.

(a) Unless otherwise specified by the Commission, an answer to a hearing request or intervention petition may be filed within 30 days after the request or petition has been filed, for those applications noticed in the FEDERAL REGISTER, or within 10 days for all other applications.

(b) Unless otherwise specified by the Commission, a reply to an answer may be filed within 10 days after all timely answers have been filed.

(c) Answers and replies should address the factors in § 110.84.

§ 110.84 Commission action on a hearing request or intervention petition.

(a) In an export licensing proceeding, or in an import licensing proceeding in which a hearing request or intervention petition does not assert or establish an interest which may be affected, the Commission will consider:

(1) Whether a hearing would be in the public interest; and

(2) Whether a hearing would assist the Commission in making the statutory determinations required by the Atomic Energy Act.

(b) If a hearing request or intervention petition asserts an interest which may be affected, the Commission will consider:

(1) The nature of the alleged interest;

(2) How that interest relates to issuance or denial; and

(3) The possible effect of any order on that interest, including whether the relief requested is within the Commission's authority, and if so, whether granting relief would redress the alleged injury.

(c) Untimely hearing requests or intervention petitions may be denied unless good cause for failure to file on time is established. In reviewing untimely requests or petitions, the Commission will also consider:

(1) The availability of other means by which the requestor's or petitioner's interest, if any, will be protected or represented by other participants in a hearing; and

(2) The extent to which the issues will be broadened or action on the application delayed.

(d) Prior to granting or denying a hearing request or intervention petition, the Commission may request further information from the petitioner, requestor, the Commission staff, the Executive Branch or others, and will not grant a hearing request prior to receipt and evaluation of Executive Branch views on the license application.

(e) The Commission will deny a request or petition that pertains solely to matters outside its jurisdiction.

(f) If an issue has been adequately explored in a previous licensing hearing conducted pursuant to this part, a request for a new hearing in connection with that issue will be denied unless:

(1) A hearing request or intervention petition establishes that an interest may be affected; or

(2) The Commission determines that changed circumstances or new information warrant a new hearing.

(g) After consideration of the factors covered by paragraphs (a) through (f), the Commission will issue a notice or order granting or denying a hearing request or intervention petition. Upon the affirmative vote of two Commissioners a hearing will be ordered. A notice granting a hearing will be published in the FEDERAL REGISTER and will specify whether the hearing will be oral or consist of written comments. A denial notice will set forth the reasons for denial.

§ 110.85 Notice of hearing consisting of written comments.

(a) A notice of hearing consisting of written comments will:

(1) State the issues to be considered;

(2) Provide the names and addresses of participants;

(3) Specify the time limits for participants and others to submit written views and respond to any written comments; and

(4) State any other instructions the Commission deems appropriate.

(b) The Secretary will give notice of any hearing under this section and § 110.86 to any person who so requests.

§ 110.86 Notice of oral hearing.

(a) A notice of oral hearing will:

(1) State the time, place and issues to be considered;

(2) Provide names and addresses of participants;

(3) Designate the presiding officer;

(4) Specify the time limit for participants and others to indicate whether they wish to present views; and

(5) State any other instructions the Commission deems appropriate.

(b) If the Commission is not the presiding officer, the notice of oral hearing will also state:

(1) When the jurisdiction of the presiding officer commences and terminates;

(2) The powers of the presiding officer; and

(3) Instructions to the presiding officer to certify promptly the completed hearing record to the Commission without preliminary decision or findings, unless the Commission directs otherwise.

§ 110.87 Conditions in a notice or order.

(a) A notice or order granting a hearing or permitting intervention may restrict irrelevant or duplicative testimony, or require common interests to be represented by a single spokesman.

(b) If a participant's interests do not extend to all the issues in the hearing, the notice or order may limit his participation accordingly.

(c) Unless authorized by the Commission, the granting of participation will not broaden the hearing issues.

§ 110.88 Authority of the Secretary.

The Secretary is authorized to prescribe time schedules and other procedural arrangements, when not covered by this part, and rule on related procedural requests.

§ 110.89 Filing and service.

(a) Hearing requests, intervention petitions, answers, replies, and accompanying documents shall be filed with the Commission by delivery or by mail or telegram to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Branch.

(b) All filings and Commission notices and orders shall be served, as appropriate, upon the applicant; the Executive Legal Director, Nuclear Regulatory Commission, Washington, D.C. 20555; the Executive Secretary, Department of State, Washington, D.C. 20520; and participants, if any.

(c) Service is completed by:

(1) Delivering the paper to the person; or leaving it in his office with someone in charge; or, if there is no one in charge, leaving it in a conspicuous place in the office; or, if he has no office or it is closed, leaving it at his usual place of residence with some occupant of suitable age and discretion;

(2) Depositing it with a telegraph company, properly addressed and with charges prepaid;

(3) Depositing it in the United States mail, properly stamped and addressed; or

(4) Any other manner authorized by law, when service cannot be made as provided in subparagraphs (1) through (3).

(d) Proof of service, stating the name and address of the person served and the manner and date of service, shall be shown, and may be made by:

(1) Written acknowledgment of the person served or his authorized representative; or

(2) The certificate or affidavit of the person making the service.

(e) The Commission may make special provisions for service when circumstances warrant.

§ 110.90 Computation of time.

(a) In computing time, the first day of a designated time period is not included and the last day is included. If the last day is a Saturday, Sunday or legal holiday at the place where the required action is to be accomplished, the time period will end on the next day which is not a Saturday, Sunday or legal holiday.

(b) In time periods of 7 days or less, Saturdays, Sundays and holidays are not counted.

(c) Whenever an action is required within a prescribed period by a paper served pursuant to § 110.89, 3 days shall be added to the prescribed period if service is by mail.

(d) An interpretation of this section is contained in § 8.3 of this chapter.

§ 110.91 Commission consultations.

(a) The Commission may consult at any time on a license application with the staff, Executive Branch or other persons.

(b) Where the Commission seeks public comment on procedural questions involving grant or denial of intervention petitions, the views of the Commission staff and the Executive Branch on standing and a hearing as a matter of right will be expressed through their public responses, except to the extent that classified information is involved.

(c) The views of the Commission staff and Executive Branch on whether a hearing should be held as a matter of discretion will be placed in the Public Document Room upon receipt by the Commissioners, except to the extent that these views are classified. The petitioners and the applicant will be notified at the time views on discretionary hearings are placed in the Public Document Room and provided a copy upon request.

SUBPART J—HEARINGS

§110.100 Public hearings.

Hearings under this part will be public unless the Commission directs otherwise.

§110.101 Filing and service.

Filing and service of hearing documents shall be pursuant to §110.89.

§110.102 Hearing docket.

For each hearing, the Secretary will maintain a docket which will include the hearing transcript, exhibits and all papers filed or issued pursuant to the hearing.

§110.103 Acceptance of hearing documents.

(a) Each document filed or issued shall be bound on the left side, clearly legible, and shall bear the docket number, license application number and hearing title.

(b) Each document shall be filed in one original and signed by the participant or his authorized representative, with his address and date of signature indicated. The signature is a representation that the document is submitted with full authority, the signator knows its contents and that, to the best of his knowledge, the statements made in it are true.

(c) A document not meeting the requirements of this section may be returned with an explanation for nonacceptance and, if so, will not be docketed.

§110.104 Presiding officer.

(a) The full Commission will ordinarily be the presiding officer at a hearing under this part. However, the Commission may provide in a hearing notice that one or more Commissioners, or any other person as provided by law, will preside.

(b) A participant may submit a written motion for the disqualification of any person presiding. The motion shall be supported by affidavit setting forth the alleged grounds for disqualification. If the presiding officer does not grant the motion or the person does not disqualify himself, the Commission will decide the matter.

(c) If any presiding officer designated by the Commission deems himself disqualified, he shall withdraw by notice on the record after notifying the Commission.

(d) If a presiding officer becomes unavailable, the Commission will designate a replacement.

(e) Any motion concerning the designation of a replacement presiding officer shall be made within 5 days after the designation.

(f) Unless otherwise ordered by the Commission, the jurisdiction of a presiding officer other than the Commission commences as designated in the hearing notice and terminates upon certification of the hearing record to the Commission, or when the presiding officer is disqualified.

§110.105 Responsibility and power of the presiding officer in an oral hearing.

(a) The presiding officer in any oral hearing shall conduct a fair hearing, develop a record that will contribute to informed decision-making, and within the framework of the Commission's orders, have the power necessary to achieve these ends, including the power to:

(1) Take action to avoid unnecessary delay and maintain order;

(2) Dispose of procedural requests;

(3) Question participants and witnesses, and entertain suggestions as to questions which may be asked of participants and witnesses;

(4) Order consolidation of participants;

(5) Establish the order of presentation;

(6) Hold conferences before or during the hearing;

(7) Establish reasonable time limits;

(8) Limit the number of witnesses; and

(9) Strike or reject duplicative or irrelevant presentations.

(b) Where the Commission itself does not preside:

(1) The presiding officer may certify questions or refer rulings to the Commission for decision;

(2) Any hearing order may be modified by the Commission; and

(3) The presiding officer will certify the completed hearing record to the Commission, which may then issue its opinion on the hearing or provide that additional testimony be presented.

§110.106 Participation in a hearing.

(a) Unless otherwise limited by this part or by the Commission, participants in a hearing may submit:

(1) Initial and concluding written statements of position on the issues;

(2) Written questions to the presiding officer; and

(3) Written response and rebuttal testimony to the statements of other participants.

(b) Participants in an oral hearing may also submit oral statements, questions, responses and rebuttal testimony.

(c) A participant in an import licensing hearing establishing that his interest may be affected, may be accorded additional procedural rights under Subpart G of Part 2 with respect to resolution of domestic factual issues regarding the public health, safety and environment of the United States, and the protection of the United States public against domestic theft, diversion or sabotage, to the extent that such issues are separable from the nondomestic issues associated with the license application.

§110.107 Presentation of testimony in an oral hearing.

(a) All direct testimony in an oral hearing shall be filed no later than 7 days before the hearing or as otherwise ordered or allowed.

(b) Written testimony will be received into evidence in exhibit form.

(c) Unless proscribed under §110.87, members of groups which are designated as participants may testify in their individual capacities.

(d) Participants may present their own witnesses.

(e) Testimony by the Commission and the Executive Branch will be presented only by persons officially designated for that purpose.

(f) Participants and witnesses will be questioned orally or in writing and only by the presiding officer. Questions may be addressed to individuals or to panels or to participants or witnesses.

(g) The presiding officer may accept written testimony from a person unable to appear at the hearing, and may request him to respond to questions.

(h) No subpoenas will be granted at the request of participants for attendance and testimony of participants or witnesses or the production of evidence.

§110.108 Appearance in an oral hearing.

(a) A participant may appear in a hearing on his own behalf or be represented by an authorized representative.

(b) A person appearing shall file a written notice stating his name, address and telephone number, and if an authorized representative, the basis of his eligibility and the name and address of the participant on whose behalf he appears.

(c) A person may be excluded from a hearing for disorderly, dilatory or contemptuous conduct, provided he is informed of the grounds and given an opportunity to respond.

§110.109 Motions and requests.

(a) Motions and requests shall be addressed to the presiding officer and, if written, also filed with the Secretary and served on other participants.

(b) Other participants may respond to the motion or request. Responses to written motions or requests shall be filed within 5 days after service.

(c) When the Commission does not preside, in response to a motion or request, the presiding officer may refer a ruling or certify a question the Commission for decision and notify the participants.

(d) Unless otherwise ordered by the Commission, a motion or request, or the certification of a question or referral of a ruling, shall not stay or extend any aspect of the hearing.

§110.110 Default.

When a participant fails to act within a specified time, the presiding officer may consider him in default, issue an appropriate ruling and proceed without further notice to the defaulting participant.

§110.111 Waiver of a rule or regulation.

(a) A participant may petition that a Commission rule or regulation be waived with respect to the license application under consideration.

(b) The sole ground for a waiver shall be that, because of special circumstances concerning the subject of the hearing, application of a rule or regulation would not serve the purposes for which it was adopted.

(c) Waiver petition shall specify why application of the rule or regulation would not serve the purposes for which it was adopted.

(d) Other participants may, within 10 days, file a response to a waiver petition.

(e) When the Commission does not preside, the presiding officer will certify the waiver petition to the Commission, which, in response, will grant or deny the waiver or direct any further proceedings.

(f) Regardless of whether a waiver is granted or denied, a separate petition for rulemaking may be filed pursuant to Subpart L of this part.

§ 110.112 Reporter and transcript for an oral hearing.

(a) A reporter designated by the Commission will record an oral hearing and prepare the official hearing transcript.

(b) Except for any classified portions, transcripts will be placed in the Public Document Room, and copies may be purchased from the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(c) Corrections of the official transcript may be made only as specified by the Secretary.

§ 110.113 Commission action.

(a) Upon completion of a hearing, the Commission will issue a written opinion including its decision on the license application, the reasons for the decision and any dissenting views.

(b) While the Commission will consider fully the hearing record, the licensing decision will be based on all relevant information, including information which might go beyond that in the hearing record.

(c) If the Commission considers information not in the hearing record in reaching its licensing decision, the hearing participants will be informed and, if not classified or otherwise privileged, the information will be placed in the Public Document Room and furnished to the participants.

(d) The Commission may issue a license before completion of a hearing if it finds that:

(1) Prompt issuance is required in the public interest, particularly in the public interest, particularly the common defense and security; and

(2) A participant establishing that his interest may be affected has been provided a fair opportunity to present his views.

(e) The Commission may:

(1) Defer any hearing;

(2) Consolidate applications for hearing:

(3) Narrow or broaden the hearing issues; and

(4) Take other action, as appropriate.

SUBPART K—SPECIAL PROCEDURES FOR CLASSIFIED INFORMATION IN HEARINGS

§ 110.120 Purpose and scope.

(a) This subpart contains special procedures concerning access to, and introduction of, classified information into hearings under this part.

(b) These procedures do not in any way apply to classified information exchanged between the Executive Branch and the Commission not introduced into a hearing. Such information will be declassified to the maximum extent feasible. The public statements of the Commission staff and Executive Branch will, to the extent consistent with classification requirements, reflect consideration of any such classified information.

§ 110.121 Security clearances and access to classified information.

(a) No person without a security clearance will have access to classified information.

(b) Only the Commission will act upon an application for access to classified information.

(c) To the extent practicable, applications for access to classified information shall describe the information to which access is desired and its level of classification (confidential, secret or other); the reasons for requesting access; the names of individuals for whom access is requested; and the reasons why access is requested for those individuals.

(d) The Commission will consider requests for appropriate security clearances in reasonable numbers; conduct its review and grant or deny these in accordance with Part 10 of this chapter; and make a reasonable charge to cover costs.

(e) The Commission will not grant security clearances for access to classified information, unless it determines that the available unclassified information is inadequate on the subject matter involved.

(f) When an applicant demonstrates that access to classified information not introduced into a hearing may be needed to prepare a participant's position on the hearing issues, the Commission may issue an order granting access to this information to the participant, his authorized representative or other persons. Access will be subject to the conditions in paragraphs (e) and (j) and will not be granted unless required security clearances have been obtained.

(g) Once classified information has been introduced into a hearing, the Commission will grant access to a participant, his authorized representative or such other persons as the Commission determines may be needed by the participant to prepare his position on the hearing issues. Access will be subject to the conditions in paragraph (e) and (j) and will not be granted unless required security clearances have been obtained.

(h) For good cause, the Commission may postpone action upon an application for access to classified information.

(i) The Commission will grant access to classified information only up to the level for which the persons described in paragraph (f) and (g) of this section are cleared and only upon an adequate commitment by them not to disclose such information subject to penalties as provided by law.

(j) The Commission will not in any circumstances grant access to classified information:

(1) Unless it determines that the grant is not inimical to the common defense and security; and

(2) Which it has received from another Government agency, without the prior consent of the originating agency.

(k) Upon completion of a hearing, the Commission will terminate all security clearances granted pursuant to the hearing and may require the disposal of classified information to which access has been granted or the observance of other procedures to safeguard this information.

§ 110.122 Classification assistance.

On the request of any hearing participant or the presiding officer (if other than the Commission), the Commission will designate a representative to advise and assist the presiding officer or the participants with respect to security classification of information and the protective requirements to be observed.

§ 110.123 Notice of intent to introduce classified information.

(a) A participant shall seek the required security clearances, where necessary, and file with the Secretary a notice of intent to introduce classified information into a hearing at the earliest possible time after the notice of hearing.

(b) If a participant has not filed a notice of intent in accordance with this section, he may introduce classified information only if he gives to the other participants and the Commission prompt written notice of intent and only as permitted by the Commission when it determines that the public interest will not be prejudiced.

(c) The notice of intent shall be unclassified and, to the extent consistent with classification requirements, state:

(1) The subject matter of the classified information, which it is anticipated will be involved;

(2) The highest level of classification of the information (confidential, secret or other);

(3) When it is anticipated that the information would be introduced; and

(4) The relevance and materiality of the information to the hearing issues.

§ 110.124 Rearrangement or suspension of a hearing.

When a participant gives notice of intent to introduce classified information and other participants do not have the required security clearances, subject to § 110.121, the Commission may:

(a) Suspend or rearrange the normal order of the hearing to give other participants an opportunity to obtain the required security clearances with minimum delay in the conduct of the hearing; or

(b) Take such other action as it determines to be in the public interest.

§ 110.125 Unclassified statements required.

(a) It is the obligation of hearing participants to introduce information in unclassifed form wherever possible, and to declassify, to the maximum extent feasible, any classified information introduced into the hearing. This obligation rests on each participant whether or not any other participant has the required security clearances.

(b) When classified information is offered for introduction into a hearing.

(1) The participant offering it shall, to the extent consistent with classification requirements, submit to the presiding officer and other participants an unclassified statement describing the substance of the classified information as accurately and completely as possible;

(2) In accordance with procedures agreed upon by the participants or prescribed by the presiding officer, and after notice to all participants and opportunity to be heard on the notice, the presiding officer will determine whether an unclassified statement may be substituted for the classified information in the hearing record without prejudice to the interest of any participant or the public;

(3) If the Commission determines that the unclassified statement (together with such unclassified modifications as it finds are necessary or appropriate to protect the interest of other participants and the public) adequately sets forth information in the classified matter which is relevant and material to the issues in the hearing, it will direct that the classifed matter be excluded from the record of the hearing; and

(4) The Commission may postpone any of the procedures in this section until all other evidence has been received. However, a participant shall not postpone service of any unclassified statement required in this section.

§ 110.126 Protection of classified information.

Nothing in this subpart shall relieve any person from safeguarding classified information as required by law and rules, regulations or orders of any Government agency.

SUBPART L—RULEMAKING

§ 110.130 Initiation of rulemaking.

The Commission may initiate action to amend the regulations in this part on its own initiative or in response to a petition.

§ 110.131 Petition for rulemaking.

(a) A petition for rulemaking should be addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention Chief, Docketing and Service Branch.

(b) The petition shall state the basis for the requested amendment.

(c) The petition may request the Commission to suspend all or part of any licensing proceeding under this part pending disposition of the petition.

(d) The Secretary will assign a docket number to the petition, place a copy in the Public Document Room and notice its receipt in the FEDERAL REGISTER.

(e) Publication may be limited by order of the Commission to the extent required by section 181 of the Atomic Energy Act.

§ 110.132 Commission action on a petition.

(a) The Commission may grant or deny the petition in whole or in part.

(b) If the petition is granted, a notice of proposed rulemaking or a notice of rulemaking will be published in the FEDERAL REGISTER.

(c) If the petition is denied, the petitioner will be informed of the grounds.

(d) Commission action on a petition will normally follow, when ever appropriate, receipt and evaluation of Executive Branch views.

(e) The Commission, in exercising the discretion authorized by section 4(a)(1) of the Administrative Procedure Act (5 U.S.C. 553(a)(1)), will decide what, if any, public rulemaking procedures will be followed.

§ 110.133 Notice of proposed rulemaking.

(a) When the Commission proposes to amend the regulations in this part, it will normally publish a notice of proposed rulemaking in the FEDERAL REGISTER.

(b) A notice of proposed rulemaking will include:

(1) The authority for the proposed rule;

(2) The substance and purpose of the proposed rule;

(3) Directions for public participation;

(4) The time and place of any public hearing; and

(5) If a hearing is to be held by other than the Commission, designated of a presiding officer and instructions for the conduct of the hearing.

(c) A notice of proposed rulemaking will be published not less than 15 days before any hearing, unless the Commission for good cause provides otherwise in the notice.

§ 110.134 Public participation.

(a) The Commission may hold an oral hearing on a proposed rule or permit any person to participate in a rulemaking proceeding through the submission of written comments.

(b) When it is in the public interest and is authorized by law, public rulemaking procedures may be omitted and a notice of rulemaking published pursuant to § 110.135.

§ 110.135 Notice of rulemaking.

(a) Upon approval of an amendment, the Commission will publish in the FEDERAL REGISTER a notice of rulemaking which includes a statment of its basis and purpose, effective date and, where appropriate, any significant variations from the amendment as proposed in any notice of proposed rulemaking.

(b) The effective date of an amendment will normally be no earlier than 30 days after publication of the notice of rulemaking, unless the Commission for good cause provides otherwise in the notice.

Appendix A—List of Nuclear Equipment and Material Under NRC Export/Import Licensing Authority

(a) Nuclear reactors and specially designed or prepared parts and components therefor as follows:

(1) Reactor pressure vessels, i.e., metal vessels as complete units or as major shop-fabricated parts therefor, which are specially designed to contain the core of a nuclear reactor and are capable of withstanding the operating pressure of the primary coolant.

(2) Reactor fuel charging and discharging machines, i.e., manipulative equipment specially designed or prepared for inserting or removing fuel in a nuclear reactor.

(3) Reactor control rods, i.e., rods specially designed or prepared for the control of the reaction rate in a nuclear reactor.

(4) Reactor pressure tubes, i.e., tubes specially designed or prepared to contain fuel elements and the primary coolant in a nuclear reactor at an operating pressure in excess of 50 atmospheres.

(5) Reactor primary coolant pumps, i.e., pumps specially designed or prepared for circulating the primary coolant in nuclear reactors.

(6) Zirconium tubes, i.e., zirconium metal and alloys in the form of tubes or assemblies of tubes specially designed or prepared for use in a nuclear reactor.

(7) Reactor internals, e.g., core support structures, control rod guide tubes, thermal shields, baffles, core grid plates and diffuser plates specially designed or prepared for use in a nuclear reactor.

(8) Reactor control drive mechanisms, including detection and measuring equipment to determine flux levels.

(9) Any other component specially designed or prepared for use in a nuclear reactor.

(10) Specially designed or prepared parts and components for any of the above.

(b) Plants for the separation of the isotopes of source material, special nuclear material or lithium, and specially designed or prepared equipment and conponents therefor as follows:

(1) Uranium hexafluoride (UF_6) corrosion resistant valves.

(2) Units capable of separating isotopes of source material, special nuclear material or lithium, such as (i) gas centrifuges, (ii) jet nozzle separation units, (iii) vortex separation units, and (iv) laser isotope separation units.

(3) Uranium hexafluoride (UF_6) corrosion resistant axial or centrifugal compressors, and specially designed or prepared seals for such compressors.

(4) Gaseous diffusion barriers specially designed or prepared for use in separating isotopes of source material, special nuclear material or lithium.

(5) Gaseous diffuser housings specially designed or prepared for use in plants for separating isotopes of source material, special nuclear material or lithium.

(6) Heat exchangers specially designed or prepared for use in gaseous diffusion plants.

(7) Any other equipment or component specially designed or prepared for use in an isotope separation plant.

(8) Specially designed or prepared parts and components for any of the above.

(c) Plants for the reprocessing of irradiated nuclear reactor fuel elements or irradiated lithium and specially designed or prepared equipment and components therefor as follows:

(1) Fuel element chopping machines, i.e., remotely operated equipment specially designed or prepared to cut, chop or shear irradiated nuclear reactor fuel assemblies, bundles or rods.

(2) Criticality safe tanks, i.e., small diameter, annual or slab tanks specially designed or prepared for the dissolution of irradiated nuclear reactor fuel.

(3) Countercurrent solvent extractors specially designed or prepared for use in a reprocessing plant.

(4) Process control instrumentation specially designed or prepared for monitoring or controlling the processing of material in a reprocessing plant.

(5) Any other equipment or components specially designed or prepared for use in a reprocessing plant.

(6) Specially designed or prepared parts and components for any of the above.

(d) Plants for the fabrication of nuclear reactor fuel elements and specially designed or prepared parts and components therefor (export only).

(e) Plants for the production of heavy water, deuterium and deuterium compounds, and specially designed or prepared parts and components therefor (export only).

(f) Special nuclear material.

(g) Source material.

(h) Byproduct material.

(i) Deuterium (export only).

(j) Nuclear grade graphite (export only).

NOTE.—See section 110.2 for definitions of the major terms used above.

APPENDIX B—LIST OF FOREIGN FACILITIES TO WHICH NUCLEAR EQUIPMENT MAY BE EXPORTED PURSUANT TO THE GENERAL LICENSE IN § 110.21 [RESERVED]

APPENDIX C.—CATEGORIZATION OF NUCLEAR MATERIAL [1]

[From IAEA INFCIRC/225, Rev. 1]

Material	Form	Category		
		I	II	III [2]
1. Plutonium [3]	Unirradiated [4]	2 kg or more	Less than 2 kg but more than 500 g.	500 g or less.
2. Uranium 235 [5]	Unirradiated: [4]			
	Uranium enriched to 20 pct U^{235} or more.	5 kg or more	Less than 5 kg but more than 1 kg.	1 kg or less.
	Uranium enriched to 10 pct U^{235} but less than 20 pct.		10 kg or more	Less than 10 kg.
	Uranium enriched above natural, but less than 10 pct U^{235}.			10 kg or more.
3. Uranium-233	Unirradiated [4]	2 kg or more	Less than 2 kg but more than 500 g.	500 g or less.

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[1] Irradiated fuel should be protected as category I, II, or III nuclear material depending on the category of the fresh fuel. However, fuel which by virtue of its original fissile material content is included as category I or II before irradiation should only be reduced one category level, while the radiation level from the fuel exceeds 100 rd/h at 1 m unshielded.

[2] Physical security determinations will not be required for 15 g or less of plutonium, uranium-233 or high-enriched uranium, or for 1 kg or less of uranium with an enrichment between 10 and 20 pct in uranium-235.

[3] All plutonium except that with isotopic concentration exceeding 80 pct in plutonium-238.

[4] Material not irradiated in a reactor or material irradiated in a reactor but with a radiation level equal to or less than 10 rd/h at 1 m unshielded.

[5] Natural uranium, depleted uranium, and thorium should be protected in accordance with prudent management practice. As a minimum, for quantities exceeding 500 kg, these materials should be kept under constant control and secured from unauthorized removal. Transport protection should include advance notification of shipment specifying mode of transport, expected time of arrival and confirmation of receipt of shipment.

3. Procedures Established Pursuant to the Nuclear Non-Proliferation Act of 1978

Procedures by the Departments of State, Energy, and Commerce, June 1, 1978, 43 F.R. 25326

PART A. GENERAL PROVISIONS

SECTION 1. AUTHORITY AND SCOPE

a. The procedures herein are established by:

(i) The Department of Energy pursuant to sections 54, 57b(2), 64, 111b(1), and 131 of the Atomic Energy Act of 1954, as amended, hereinafter referred to as "the Atomic Energy Act."

(ii) The Department of State pursuant to section 126a(1) of the Atomic Energy Act;

(iii) The Department of Commerce pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, hereinafter referred to as "the Act", and the general policies and procedures set forth in the Export Administration Act of 1969, as amended.

b. These procedures apply to agency activities with respect to the matters dealt with by sections 54, 57b(2), 64, 109, 111b(1), 126a and 131 of the Atomic Energy Act and sections 309(c) and 402(a) of the Act, and the Export Administration Act of 1969, as amended.

c. These procedures have been agreed to by the Secretaries of State, Energy, Defense, Commerce, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission, or by the authorized designee acting on behalf of any of the foregoing.

SECTION 2. RESPONSIBLE OFFICIALS

a. Department of State, Washington, D.C. 20520—The Deputy Assistant Secretary for Nuclear Energy and Energy Technology Affairs in the Bureau of Oceans and International Environmental and Scientific Affairs.

b. Department of Energy, Washington, D.C. 20545—For sections 57b and 126a of the Atomic Energy Act and section 309(c) of the Act, the Assistant Secretary for Defense Programs. For sections 54, 64, 111b and 131, of the Atomic Energy Act and section 402 of the Act, the Deputy Assistant Secretary for International Programs.

c. Department of Defense, Washington, D.C. 20301—The Assistant Secretary for International Security Affairs.

d. Department of Commerce, Washington, D.C. 20230—The Deputy Assistant Secretary for Trade Regulation.

e. Arms Control and Disarmament Agency, Washington, D.C. 20451—The Assistant Director for Non-Proliferation.

f. The Nuclear Regulatory Commission, Washington, D.C. 20555—The Director, Office of International Programs.

SECTION 3. OFFICES FOR COORDINATION

a. Department of State—The Office of Export and Import Control in the Nuclear Energy and Energy Technology Division of the Bureau of Oceans and International Environmental and Scientific Affairs.

b. Department of Energy—For Parts B, D, and F of these procedures, the Office of the Assistant Secretary for Defense Programs. For Parts C and E of these procedures, the Office of Nuclear Affairs, in the Office of International Affairs.

c. Department of Defense—The Office of the Assistant Secretary for International Security Affairs.

d. Department of Commerce—The Office of Export Administration in the Bureau of Trade Regulations.

e. Arms Control and Disarmament Agency—The Nuclear Exports Division of the Bureau of Non-Proliferation.

f. Nuclear Regulatory Commission—The Office of International Programs, Assistant Director for Export/Import and International Safeguards.

SECTION 4. COORDINATION AND MONITORING

The Interagency Subgroup on Nuclear Export Coordination of the National Security Council (NSC) Ad Hoc Group on Non-Proliferation shall, without prejudice to its authority to carry out other functions, monitor and facilitate the interagency processing of the activities referred to in section 1(b), and serve as a forum for exchanging and coordinating views. This Subgroup shall meet as frequently as necessary, normally twice a month. This Subgroup shall establish such procedures as are necessary for its effective functioning.

SECTION 5. RESOLUTION OF INTERAGENCY DISAGREEMENTS

a. If, after appropriate consultation, any agency listed in section 2 does not agree with a proposed Executive branch action pursuant to section 54, 57b(2), 64, 109, 111b(1), 126a or 131 of the Atomic Energy Act, or section 309(c) or 402(a) of the Act, the steps set forth below may be followed, normally in the order indicated, to facilitate resolution of the disagreement:

(i) Consideration in the Subgroup on Nuclear Export Coordination of the NSC Ad Hoc Group on Non-Proliferation;

(ii) Consideration in the NSC Ad Hoc Group on Non-Proliferation;

(iii) Any other procedures of the NSC that are appropriate;

(iv) Referral to the President.

b. Recourse to the steps in this section shall be taken expeditiously. An agency wishing to have recourse to any of the steps above shall so indicate immediately to the offices specified in section 3. The agency concerned shall normally give five days notice before initiating action under steps (ii), (iii), or (iv).

c. Nothing in this section shall derogate from the statutory authority of any agency. If any agency considers that all statutory requirements have been met and wishes to proceed with an action within its jurisdiction covered by these procedures notwithstanding the existence of an interagency disagreement, it shall normally provide all other concerned agencies with five working days notice.

SECTION 6. CONTENT OF JUDGMENTS, FINDINGS AND CONSIDERATIONS UNDER THESE PROCEDURES

Judgments, findings and determinations under these procedures shall address the matters required by the applicable section of the Atomic Energy Act.

SECTION 7. TECHNICAL PROVISIONS

a. These procedures take effect on June 7, 1978.

b. The processing of any action subject to these procedures shall not be delayed because of the entry into effect of these procedures. Clearances obtained or matters resolved under procedures previously in effect need not be reconsidered for the sole purpose of complying with new procedural requirements.

c. Nothing in these procedures shall affect the ability of any agency to protect classified or proprietary information pursuant to applicable law.

d. These procedures may be amended at any time subject to agreement among the agencies specified in section 1(c).

PART B. EXECUTIVE BRANCH JUDGMENTS UNDER SECTION 126a(1) OF THE ATOMIC ENERGY ACT

SECTION 1. PROCEDURES

a. Except as provided in section 2 of this Part, the Nuclear Regulatory Commission shall promptly transmit any properly completed export license application or proposed general license or proposed exemption from licensing requirements to the offices listed in paragraphs a through e of the section 3 of Part A.

b. As promptly as possible, but in no event later than 15 days after the receipt of each license application or proposed general license or proposed exemption, the offices listed in paragraphs b through e of section 3 of Part A shall review the submission and shall advise the Office of Export and Import Control:

(i) Whether that agency believes that any additional information is required in connection with preparation of the Executive branch judgment. In the event that such information is required, the Office of Export and Import Control shall seek to obtain and provide the information as promptly as possible. If additional information required is essential to further Executive branch processing, the Office of Export and Import Control may return the application, proposed general license, or proposed exemption to the Nuclear Regulatory Commission, in which event the schedule of actions and deadlines set out herein shall recommence upon receipt by the Office of a substantively complete application, proposed general license or proposed exemption from the Nuclear Regulatory Commission;

(ii) Whether that agency believes a license application appears to raise issues which will require more extensive consideration than is normally necessary in Executive branch processing or similar license applications. If such issues appear to be present, the Office of

Export and Import Control will normally schedule consideration of these issues at the earliest possible meeting of the Subgroup on Nuclear Export Coordination and shall as promptly as possible initiate appropriate steps, including those required to obtain any necessary policy decisions and to initiate necessary diplomatic consultations;

(iii) Of their preliminary views on the license application, if so requested by the Office of Export and Import Control.

If the Department of Energy is the license applicant pursuant to section 111a of the Atomic Energy Act, the designee of the Secretary of Energy shall not be required to advise the Office of Export and Import Control of its views pursuant to this paragraph.

c. No later than five working days after receipt of its copy of a license application from the Nuclear Regulatory Commission, the Department of Energy shall, as appropriate, if the proposed export appears to be consistent with the applicable agreement for cooperation, request confirmation in writing from the nation or group of nations under the agreement for cooperation of which the export is to take place, that among other things:

(i) The export will be subject to the terms and conditions of the agreement for cooperation;

(ii) The consignee is authorized to receive the export; and

(iii) Physical security measures will be maintained with respect to the export that as a minimum provide protection comparable to that set forth in document INFCIRC 225/Rev. 1 of the International Atomic Energy Agency, entitled, "The Physical Protection of Nuclear Material."

Such confirmation shall, as appropriate, be requested with respect to any intermediate destinations and the ultimate destination of the export that are identified in the license application. If any such confirmation is not received within fifty-five days after receipt of the license application by the Office of Export and Import Control in the Department of State, the Office may return the application to the Nuclear Regulatory Commission, in which event the schedule of actions and deadlines set out herein shall recommence after receipt of the confirmation and return to the Office by the Nuclear Regulatory Commission of the application.

d. Upon receipt of its copy of the license application from the Nuclear Regulatory Commission, the Department of Energy shall determine whether the proposed export involves material with respect to which the United States has agreed to consult with or obtain the approval of any other nation or group of nations prior to its export. If such an undertaking exists, the Department of Energy shall promptly inform the Department of State so that appropriate action may be taken.

e. If the license application is for an export of high enriched uranium, plutonium or uranium-233, equal to or exceeding formula quantities (as defined in 10 CFR 73.30) the Department of Energy shall prepare an analysis of the technical and economic justification for the use of such material, including whether the quantities requested are necessary for the efficient and continuous operation of the facility involved. This analysis shall be provided to the Office of Export and Import Control of the Department of State within 30 days after receipt by the Department of Energy of its copy of the export license application or as soon thereafter as possible. This analysis shall be provided to concerned agencies and shall be taken into consideration in preparing the Executive branch judgment.

f. As promptly as possible following receipt of the information in paragraph b, and no later than 30 days after its receipt of the license application, proposed general license or proposed exemption, the Office of Export and Import Control shall prepare and transmit to the offices listed in paragraphs b through e of section 3 of Part A, a proposed general license or proposed exemption. If additional information has been requested from the Nuclear Regulatory Commission pursuant to paragraph b(i), or if actions are pending pursuant to paragraphs b(ii), d or e, this shall be noted in transmitting the proposed Executive branch judgment.

g. No later than ten days after the date of receipt of a proposed Executive branch judgment, the designees of the Secretaries of Energy, Defense, and Commerce, and the Director of the Arms Control and Disarmament Agency, shall each provide the Office of Export and Import Control their written views on the proposed Executive branch judgment transmitted pursuant to paragraph f. When providing its views, the Department of Energy shall transmit a copy of any confirmation obtained pursuant to paragraph c and, if applicable, any approval or confirmation obtained pursuant to paragraph d. If a required confirmation or approval is not available at that time, the Department of Energy shall so advise the Office of Export and Import Control. Upon receipt of the required confirmation, the Department of Energy shall forward it as expeditiously as possible to the Office of Export and Import Control and shall simultaneously advise the Nuclear Regulatory Commission so that the procedures in paragraph c above may be undertaken. In the event of any disagreement which cannot be resolved between agencies, the provisions in section 5 of Part A shall be followed.

h. An Executive branch judgment shall normally address the matters required by section 126a(1) of the Atomic Energy Act with respect to both any intermediate destinations and the final destination of the export that are identified in the license application. Notice of any transfer of the export between intermediate destinations and the final destination shall be received by the Department of Energy. Any action required under Part E for approval of transfers between intermediate and final destinations specified in an application for an export license and which are expected to occur within one year of issuance of a license, normally will be accomplished without unnecessary duplication of procedural steps during the review of the license application, and publication in the Federal Register will take place as soon as possible after issuance of the export license. If any such transfer does not occur within one year following issuance of the export license, an appropriate request for approval of the transfer shall be submitted to the Department of Energy for action pursuant to the procedures in Part E.

i. A single Executive branch judgment may address more than a single application to the extent that they involve exports of similar equipment or material to the same country in the same general time frame, of similar significance for nuclear explosive purposes and under reasonably similar circumstances.

j. An Executive branch judgment may address the matters required by section 126a(1) of the Atomic Energy Act by expressing the view that there is no material changed circumstance associated with a new license application from those existing at the time of issuance of a previous license for an export to the same country, where the previous license was subject to full analysis by the Executive branch.

k. An Executive branch judgment may address any or all of the matters required by section 126a(1) of the Atomic Energy Act by reference to an analysis previously submitted to the Nuclear Regulatory Commission if the offices in paragraphs a through e of section 3 of Part A agree that there is no material changed circumstance with respect to such matter or matters.

l. No later than 60 days after receipt of a license application, proposed general license or proposed exemption by the Department of State, the Department shall transmit to the Nuclear Regulatory Commission the Executive branch judgment on the license application, proposed general license or proposed exemption.

m. Any time period in this section may be extended by the Deputy Assistant Secretary of State for Nuclear Energy and Energy Technology: *Provided*, That the time period in paragraph 1 may be extended only if in the view of the Secretary of State or his designee it is in the national interest to allow additional time, in which case he shall notify the Committee on Foreign Relations of the Senate, the Committee on International Relations of the House of Representatives, and the offices listed in paragraphs b through f of section 3 of Part A, of such extension.

n. The Office of Export and Import Control shall maintain for at least five years records of steps set forth above and the dates on which they were taken.

SECTION 2. SMALL QUANTITIES

a. Pursuant to the authority in section 126a(1) of the Atomic Energy Act to determine that any export in a category would not be inimical to the common defense and security because it lacks significance for nuclear explosive purposes, the following categories of exports shall not normally require case-by-case Executive branch review under these procedures:

(1) Byproduct material: all types and quantities, except tritium in quantities exceeding 1,000 curies;

(2) Source material: all exports for nonnuclear end uses, and exports of less than 250 kilograms for nuclear end uses;

(3) Low-enriched uranium: one kilogram or less of contained uranium-235;

(4) High-enriched uranium: 0.040 effective kilograms or less;

(5) Plutonium and uranium-233: 10 grams or less;

(6) Deuterium: 225 kilograms of heavy water or its equivalent deuterium content in any other form;

(7) Nuclear grade graphite: 100 kilograms or less;

(8) Nuclear equipment: all exports with a value under $100,000.

b. This section shall not apply to exports with end uses related to isotope separation, chemical reprocessing, heavy water production, plutonium handling, such types of advanced technology reactors as may be agreed by the agencies listed in section 1(c) of Part A, and initial exports of nuclear equipment to foreign nuclear facilities, and is subject to other limitations which the Executive branch or the Nuclear Regulatory Commission may, from time to time, deem necessary.

PART C. FOREIGN DISTRIBUTIONS UNDER SECTIONS 54 AND 64 OF THE ATOMIC ENERGY ACT

SECTION 1. PROCEDURES

a. The Office of Nuclear Affairs of the Department of Energy shall prepare an analysis of proposed distributions of source and special nuclear material. The Office shall transmit the analysis to the offices listed in paragraphs a, c, e, and f of section 3 of Part A. The analysis shall include a statement of the purpose of the distribution, reference to the applicable agreements for cooperation, other pertinent information and a recommended course of action. The analysis will specify whether the proposed distribution appears to raise issues which will require more extensive consideration than is normally necessary for Executive branch processing of similar requests and the Office of Nuclear Affairs will initiate as promptly as possible appropriate steps, including those required in order to obtain any necessary policy decisions and initiate any necessary diplomatic consultation.

b. No later than 30 days following receipt of the analysis, the designees of the Secretaries of State and Defense, the Director of the Arms Control and Disarmament Agency and the Nuclear Regulatory Commission shall provide the Office of Nuclear Affairs with their written concurrence or such other views, comments or proposed courses of action which they consider appropriate. In the event of any disagreement which cannot be resolved between agencies, the provisions in section 5 of Part A shall be followed.

c. No later than 30 days following the expiration of the time limit set forth in paragraph b, the Office of Nuclear Affairs shall determine whether to authorize the proposed distribution: *Provided*, That if recourse is made to the procedures in section 5 of Part A, this period shall be 60 days.

d. Any time period in this section may be extended by the Deputy Assistant Secretary for International Programs or his designee.

SECTION 2. SMALL QUANTITIES

The Department of Energy, without further interagency concurrence or consultation may, to the extent authorized in sections 54, 64 and 82 of the Atomic Energy Act, distribute such quantities of material as are specified in paragraph a of section 2 of Part B, subject to the qualifications and conditions contained in paragraph b of that section.

PART D. DIRECT OR INDIRECT PRODUCTION OF SPECIAL NUCLEAR MATERIAL ABROAD PURSUANT TO SECTION 57b OF THE ATOMIC ENERGY ACT

SECTION 1. PROCEDURES

a. Following receipt by the Department of Energy of any application (which is properly submitted under 10 CFR, Part 810) for specific authorization, the Office of Defense Programs of the Department of Energy shall submit the application, an analysis, and a preliminary staff recommendation to the offices listed in paragraphs a and c through f of section 3 of Part A.

b. The analysis provided for in paragraph a, shall specify whether the application appears to raise issues which will require more extensive considerations than is normally necessary for Executive branch processing of similar applications, and the Assistant Secretary for Defense Programs or his designee shall as promptly as possible initiate appropriate steps, including those required in order to obtain any necessary policy decisions and to initiate any necessary diplomatic consultations.

c. No later than 30 days after receipt of the analysis, the designees of the Secretary of State, Defense, Commerce, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission shall provide the Office of Defense Programs of the Department of Energy with written concurrence in the preliminary staff recommendation of such other views, comments or proposed courses of action which they consider appropriate, including such analysis as may be needed to support their position. In the event of any disagreement which cannot be resolved among the agencies, the provisions in section 5 of Part A shall be followed.

d. No later than 30 days following receipt of the concurrence or views as provided in paragraph c, the Office of Defense Programs shall provide the Secretary of Energy with a recommendation, including the views of the agencies listed in paragraph c, concerning his action on the application: *Provided*, That if recourse is made to the procedures in section 5 of Part A, this period shall be 60 days.

e. Any time period in this section may be extended by the Assistant Secretary for Defense Programs or his designees.

SECTION 2. CONTINUED EFFECT OF CURRENT PROCEDURES

a. Pursuant to section 603 of the Act, 10 CFR Part 810, Unclassified Activities in Foreign Atomic Energy Programs continues in effect.

b. Any amendment of Part 810 which involves a determination by the Secretary of Energy regarding generally authorized activities shall be made in accordance with these procedures.

PART E. SUBSEQUENT ARRANGEMENTS UNDER SECTION 131 OF THE ATOMIC ENERGY ACT

SECTION 1. PROCEDURES

a. Any request from a nation or group of nations for a subsequent arrangement as defined in section 131(2) of the Atomic Energy Act or request for an enrichment authorization under section 402(a) of the Act shall, if it appears consistent with applicable law and agreements and if submitted in appropriate form, be transmitted promptly by the Office of Nuclear Affairs of the Department of Energy to the offices listed in paragraphs a, and c through f of section 3 of Part A, together with any supporting documents. All references to the term "subsequent arrangement" shall, for purposes of this Part, be deemed to include an enrichment authorization.

b. As promptly as possible, but no later than 15 days after receipt of each request, the offices listed in paragraphs a, and c through f of section 3 of Part A shall review the request and shall advise the Office of Nuclear Affairs.

(i) Whether that agency believes that any additional information is required. In the event that such information is required, the Office of Nuclear Affairs shall seek to obtain and provide the information as promptly as possible;

(ii) Whether that agency believes the request appears to raise issues which will require more extensive consideration than is normally necessary in Executive branch processing of similar requests. If such issues appear to be present, the Office of Nuclear Affairs will normally schedule consideration of these issues at the earliest possible meeting of the Subgroup on Nuclear Export Coordination and shall as promptly as possible initiate appropriate steps, including those required to obtain any necessary policy decisions and to begin any necessary diplomatic consultations; and

(iii) Of their preliminary view, if so requested by the Office of Nuclear Affairs.

c. The Office of Nuclear Affairs shall (if a request for a subsequent arrangement is involved, no later than 15 days after the expiration of the time limit set forth in paragraph b)[1] prepare and transmit to the offices listed in paragraphs a, and c through f of section 3 of Part A, a proposed subsequent arrangement, proposed denial, or other proposed course of action. In this transmittal, the Office of Nuclear Affairs shall advise the Office of Export and Import Control of the Department of State if, in the view of the Department of Energy, a proposed subsequent arrangement is likely to involve negotiations of a policy nature pertaining to arrangements for the storage or disposition of irradiated fuel elements or approvals for the transfer, for which prior approval is required under an agreement for cooperation, by a recipient of source or special nuclear material, production or utilization facilities, or nuclear technology. This transmittal shall also specify any steps deemed appropriate to expedite a proposed subsequent arrangement in the instances specified in section 131a(3) of the Atomic Energy Act. The transmittal may also include an analysis where necessary in the judgment of the Office of Nuclear Affairs to facilitate review. Upon the written request of any recipient office within 10 days after receipt of a proposed subsequent arrangement, the Office of Nuclear Affairs shall prepare and transmit an analysis of the proposed subsequent arrangement.

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[1] A subsequent arrangement may be initiated in certain circumstances by the Department of Energy, in which case paragraphs a and b are not applicable.

d. No later than 20 days after receipt of the proposed subsequent arrangement pursuant to paragraph c, the designees of the Secretary of State, the Secretary of Defense, the Secretary of Commerce, the Director of the Arms Control and Disarmanent Agency, and the Nuclear Regulatory Commission shall provide the Office of Nuclear Affairs with their written concurrences or such other views, comments, or proposed courses of action which they consider appropriate. The response of the designee of the Director of the Arms Control and Disarmament Agency shall also include a declaration of any intention of the Director to prepare a Nuclear Proliferation Assessment Statement pursuant to section 131a of the Atomic Energy Act. Any such statement shall be prepared within 60 days of the receipt by the Director or his designee of a copy of the proposed subsequent arrangement. In the event of any disagreement which cannot be resolved between agencies, the provisions of section 5 of Part A shall be followed.

e. No later than 20 days after the expiration of the time limit set forth in paragraph d, but, if the Director of the Arms Control and Disarmament Agency has declared his intention to prepare a Nuclear Proliferation Assessment Statement, only after receipt of the Statement or the expiration of the time authorized in section 131c of the Atomic Energy Act for the preparation of the Statement, whichever occurs first, the Secretary of Energy, or his designee, after making the determination required by section 131a(1) of the Atomic Energy Act and pursuant to any required judgment, under section 131b(2) of the Atomic Energy Act, shall decide whether to enter into the proposed subsequent arrangement: *Provided*, That if recourse is made to the provisions in section 5 of Part A, this period shall be 60 days.

f. After discharging the Department of Energy's responsibilities under these procedures, the Secretary of Energy or his designee shall cause to be published in the Federal Register notice of any proposed subsequent arrangements together with his written determination that the arrangement will not be inimical to the common defense and security. He shall also report to Congress with respect to any proposed subsequent arrangement of the types specified in section 131b(1) of the Atomic Energy Act. No subsequent arrangement shall take effect until the applicable time period or periods in section 131 of the Atomic Energy Act have elapsed.

g. Except for the time limits for the preparation of a Nuclear Proliferation Assessment Statement, any time period in this section may be extended by the Deputy Assistant Secretary for International Programs or his designee.

SECTION 2. SUBSEQUENT ARRANGEMENTS INVOLVING RETRANSFERS WITHIN THE SCOPE OF AN EXPORT LICENSE AND CERTAIN SMALL QUANTITIES

a. The Department of Energy, without further interagency concurrence or consultation and after complying with any other requirements, may approve any request for a subsequent arrangement which is limited to a retransfer where an applicable export license has authorized transfer of the material involved for the same purpose and to the same destination for which the retransfer is to be made, unless:

(i) The Department of Energy determines there has been a material change in circumstances since the issuance of the export license;

(ii) The retransfer does not occur in the same general time period as contemplated by the export license;

(iii) The retransfer is for any of the purposes set forth in paragraph b of section 2 of Part B;

(iv) The retransfer involves more than one effective kilogram of uranium-235 in uranium enriched to greater than 20 percent in the isotope 235; or

(v) The retransfer involves more than 500 grams of plutonium or uranium-233.

b. The Department of Energy, without obtaining interagency concurrence or consultation and after complying with any other requirements, may enter into a proposed subsequent arrangement which is limited to such quantities of material as are specified in paragraph a of section 2 of Part B, subject to the qualifications and conditions contained in paragraph b of that section.

c. The Department of Energy shall provide the offices set forth in paragraphs a, and c through f of section 3 of Part A with a copy of the executed approval form of any subsequent arrangements approved pursuant to this section.

PART F. EXPORT ITEMS UNDER SECTION 309c OF THE ACT

SECTION 1. PROCEDURES

a. A list of commodities licensed by the Department of Commerce which, if used for purposes other than those for which the export is intended, could be of significance for nuclear explosive purposes, shall be developed and maintained by the Departments of Commerce and Energy in consultation with the Departments of State and Defense, the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission.

b. Export license applications for commodities on the list referred to in paragraph 1, as well as any other applications which may involve possible nuclear uses, shall be reviewed by the Department of Commerce in consultation with the Department of Energy. When either the Department of Commerce or the Department of Energy believes that—because of the proposed destination of the export, its timing, or other relevant considerations—a particular application should be reviewed by other agencies, or denied, such application shall be referred to the Subgroup on Nuclear Export Coordination. The Subgroup shall promptly consider any such application and provide its advice and recommendations to the Department of Commerce. Disagreements shall be handled in accordance with the provisions of section 5 of Part A.

c. Reviewing agencies shall promptly, but not later than 30 days after receipt from the Department of Commerce of an application, provide their views thereon to the Department of Commerce. If, however, it is not possible to provide views within this time or if, at any point during review, it appears that final action on an application will not be completed within 60 days of receipt by the Department of Commerce, any agency which requires additional time shall inform the Department of Commerce at the earliest possible time of the issues involved and provide an estimate of the time needed to complete its review. The Department of Commerce will then advise the exporter in writing as required by section 4(g)(1) of the Export Administration Act of 1969, as amended.

d. If the Subgroup recommends denial of an application, the reasons therefor shall be articulated for the record. If the Department of Commerce agrees with the recommendation, that Department, in accordance with section 4(g)(2)(A) of the Export Administration Act of 1969, as amended, shall notify the applicant in writing of the negative considerations raised with respect to such license application. Before final action is taken on the application, the applicant shall be afforded the opportunity to respond within 15 days to such negative considerations. If appropriate, the applicant's response will be made available to the Subgroup for further review and advice. In the event of any disagreement which cannot be resolved between agencies, the provisions in section 5 of Part A shall be followed.

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704

J. UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS

CONTENTS

Page
1. Charter of the United Nations (amended) 707
2. Statute of the International Court of Justice 732
   - Connally Reservation 745
   - Truman Declaration Respecting Compulsory Jurisdiction 746
   - United States Modification Respecting Compulsory Jurisdiction 747
   - United States Termination of Declaration Respecting Compulsory Jurisdiction 748
3. Agreement Between the United Nations and the United States of America Regarding the Headquarters of the United Nations (amended) 749
4. Convention on Privileges and Immunities of the United Nations (with reservation) 761
5. Acts of Terrorism and Crimes Against Internationally Protected Persons 770
   - a. OAS Convention to Prevent and Punish the Acts of Terrorism Against Persons of International Significance 770
   - b. U.N. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons 774
6. Universal Declaration of Human Rights 780
7. Convention on the Prevention and Punishment of the Crime of Genocide 785
   - a. Senate Resolution of Ratification of Genocide Convention, including Reservations, Understandings and Declaration 789
   - b. S.J. Res. 347 Regarding Further Amendment of the Genocide Convention 791

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1. Charter of the United Nations[1] (amended)

Signed at San Francisco June 26, 1945; Ratification advised by the Senate of the United States of America July 28, 1945; Ratified by the President of the United States of America August 8, 1945; Ratifiction deposited August 8, 1945; Proclaimed by the President of the United States of America October 31, 1945; Entered into force October 24, 1945. Amendments December 17, 1963,[2] December 20, 1965,[3] and December 20, 1971[4]

We the peoples of the United Nations determined

to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and

to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and

to promote social progress and better standards of life in larger freedom, and for these ends

to practice tolerance and live together in peace with one another as good neighbors, and

to unite our strength to maintain international peace and security, and

to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and

to employ international machinery for the promotion of the economic and social advancement of all peoples,

have resolved to combine our efforts to accomplish these aims.

Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and to hereby establish an international organization to be known as the United Nations.

CHAPTER I—PURPOSES AND PRINCIPLES

ARTICLE 1

The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of

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[1] TS 993· 59 Stat. 1031; 3 Bevans 1153.

[2] Articles 23, 27 and 61 amended at 16 UST 1134; TIAS 5857; 557 UNTS 143.

[3] Article 109 amended at 19 UST 5450; TIAS 6529.

[4] Article 61 amended further at 24 UST 2225; TIAS 2255.

acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;

2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;

3. To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and

4. To be a center for harmonizing the actions of nations in the attainment of these common ends.

ARTICLE 2

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.

2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.

3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.

6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

CHAPTER II—MEMBERSHIP

ARTICLE 3

The original Members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of January 1, 1942, sign the present Charter and ratify it in accordance with Article 110.

ARTICLE 4

1. Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.

2. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

ARTICLE 5

A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council.

ARTICLE 6

A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council.

CHAPTER III—ORGANS

ARTICLE 7

1. There are established as the principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice, and a Secretariat.

2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

ARTICLE 8

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

CHAPTER IV—THE GENERAL ASSEMBLY

Composition

ARTICLE 9

1. The General Assembly shall consist of all the Members of the United Nations.

2. Each Member shall have not more than five representatives in the General Assembly.

Functions and Powers

ARTICLE 10

The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and except as provided in Article 12, may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.

ARTICLE 11

1. The General Assembly may consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.

2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council, or by a state which is not a Member of the United Nations in accordance with Article 35, paragraph 2, and except as provided in Article 12, may make recommendations with regard to any such questions to the state or states concerned or to the Security Council or to both. Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.

3. The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.

4. The powers of the General Assembly set forth in this Article shall not limit the general scope of Article 10.

ARTICLE 12

1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall

similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters.

ARTICLE 13

1. The General Assembly shall initiate studies and make recommendations for the purpose of:

a. promoting international cooperation in the political field and encouraging the progressive development of international law and its codification;

b. promoting international cooperation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

2. The further responsibilities, functions, and powers of the General Assembly with respect to matters mentioned in paragraph 1(b) above are set forth in Chapters IX and X.

ARTICLE 14

Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations.

ARTICLE 15

1. The General Assembly shall receive and consider annual and special reports from the Security Council; these reports shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.

2. The General Assembly shall receive and consider reports from the other organs of the United Nations.

ARTICLE 16

The General Assembly shall perform such functions with respect to the international trusteeship system as are assigned to it under Chapters XII and XIII, including the approval of the trusteeship agreements for areas not designated as strategic.

ARTICLE 17

1. The General Assembly shall consider and approve the budget of the Organization.

2. The expenses of the Organization shall be borne by the Members as apportioned by the General Assembly.

3. The General Assembly shall consider and approve any financial and budgetary arrangements with specialized agencies referred to in Article 57 and shall examine the administrative budgets of such specialized agencies with a view to making recommendations to the agencies concerned.

Voting

ARTICLE 18

1. Each member of the General Assembly shall have one vote.

2. Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1(c) of Article 86, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.

3. Decisions on other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, shall be made by a majority of the members present and voting.

ARTICLE 19

A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of the arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

Procedure

ARTICLE 20

The General Assembly shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations.

ARTICLE 21

The General Assembly shall adopt its own rules of procedure. It shall elect its President for each session.

ARTICLE 22

The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.

CHAPTER V—THE SECURITY COUNCIL

Composition

ARTICLE 23 [5]

1. The Security Council shall consist of fifteen Members of the United Nations. The Republic of China, France, and the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect ten other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.

2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members after the increase of the membership of the Security Council from eleven to fifteen, two of the four additional members shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.

3. Each member of the Security Council shall have one representative.

Functions and Powers

ARTICLE 24

1. In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII.

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[5] Amendments to Articles 23, 27 and 61 of the Charter of the United Nations, adopted by the General Assembly on 17 December 1963, came into force on 31 August 1965. The amendment to Article 23 enlarged the membership of the Security Council from eleven to fifteen. The amended Article 27 provides that decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members (formerly seven) and on all other matters by an affirmative vote of nine members (formerly seven), including the concurring votes of the five permanent members of the Security Council. The amendment to Article 61 enlarged the membership of the Economic and Social Council from eighteen to twenty-seven. Another amendment, approved May 8, 1967 corrected an oversight. When the U.N. Charter amendments approved by the Senate in 1965 increased the membership of the Security Council from 11 to 15, at the same time there was an increase from seven to nine in the number of affirmative votes required for Council decisions. Inadvertently the United Nations failed to include in its amendments a conforming change in Security Council voting requirements in article 109, paragraph 1, which was subsequently accomplished by Amendment to Article 109 adopted by the General Assembly to the United Nations December 20, 1965 (TIAS 6529).

A further amendment to Article 61 of the Charter of the United Nations, adopted by the General Assembly on December 20, 1971, came into force on September 24, 1973. The amendment enlarged the membership of the Economic and Social Council from twenty-seven to fifty-four. 24 UST 2225; TIAS 7739.

3. The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

ARTICLE 25

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

ARTICLE 26

In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

Voting

ARTICLE 27 [6]

1. Each member of the Security Council shall have one vote.
2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members.
3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

Procedure

ARTICLE 28

1. The Security Council shall be so organized as to be able to function continuously. Each member of the Security Council shall for this purpose be represented at all times at the seat of the Organization.
2. The Security Council shall hold periodic meetings at which each of its members may, if it so desires, be represented by a member of the government or by some other specially designated representative.
3. The Security Council may hold meetings at such places other than the seat of the Organization as in its judgment will best facilitate its work.

ARTICLE 29

The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions.

ARTICLE 30

The Security Council shall adopt its own rules of procedure, including the method of selecting its President.

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[6] See footnote 5 on p. 713.

ARTICLE 31

Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected.

ARTICLE 32

Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations.

CHAPTER VI—PACIFIC SETTLEMENT OF DISPUTES

ARTICLE 33

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.
2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

ARTICLE 34

The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

ARTICLE 35

1. Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly.
2. A state which is not a Member of the United Nations may bring to the attention of the Security Council or the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.
3. The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

ARTICLE 36

1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.

2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.

3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.

ARTICLE 37

1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.

2. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

ARTICLE 38

Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

CHAPTER VII—ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE PEACE, AND ACTS OF AGGRESSION

ARTICLE 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

ARTICLE 40

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendation or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

ARTICLE 41

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

ARTICLE 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

ARTICLE 43

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.
2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.
3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

ARTICLE 44

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfillment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

ARTICLE 45

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

ARTICLE 46

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

ARTICLE 47

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command

of forces placed at its disposal, the regulation of armaments and possible disarmament.

2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.

3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional subcommittees.

ARTICLE 48

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.

2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

ARTICLE 49

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

ARTICLE 50

If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

ARTICLE 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

CHAPTER VIII—REGIONAL ARRANGEMENTS

ARTICLE 52

1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.

2. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.

3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.

4. This Article in no way impairs the application of Articles 34 and 35.

ARTICLE 53

1. The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.

2. The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.

ARTICLE 54

The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

CHAPTER IX—INTERNATIONAL ECONOMIC AND SOCIAL COOPERATION

ARTICLE 55

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

a. higher standards of living, full employment, and conditions of economic and social progress and development;

b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and

c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

ARTICLE 56

All Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55.

ARTICLE 57

1. The various specialized agencies, established by intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.

2. Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialized agencies.

ARTICLE 58

The Organization shall make recommendations for the coordination of the policies and activities of the specialized agencies.

ARTICLE 59

The Organization shall, where appropriate, initiate negotiations among the states concerned for the creation of any new specialized agencies required for the accomplishment of the purposes set forth in Article 55.

ARTICLE 60

Responsibility for the discharge of the functions of the Organization set forth in this Chapter shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council, which shall have for this purpose the powers set forth in Chapter X.

CHAPTER X—THE ECONOMIC AND SOCIAL COUNCIL

Composition

ARTICLE 61 [7]

1. The Economic and Social Council shall consist of fifty-four Members of the United Nations elected by the General Assembly.

2. Subject to the provisions of paragraph 3, eighteen members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election.

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[7] See footnote 5 on p. 718.

3. At the first election after the increase in the membership of the Economic and Social Council from twenty-seven to fifty-four members, in addition to the members elected in place of the nine members whose term of office expires at the end of that year, twenty-seven additional members shall be elected. Of these twenty-seven additional members, the term of office of nine members so elected shall expire at the end of one year, and of nine other members at the end of two years, in accordance with arrangements made by the General Assembly.

4. Each member of the Economic and Social Council shall have one representative.

Functions and Powers

ARTICLE 62

1. The Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health, and related matters and may make recommendations with respect to any such matters to the General Assembly, to the Members of the United Nations, and to the specialized agencies concerned.

2. It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all.

3. It may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence.

4. It may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.

ARTICLE 63

1. The Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.

2. It may coordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations.

ARTICLE 64

1. The Economic and Social Council may take appropriate steps to obtain regular reports from the specialized agencies. It may make arrangements with the Members of the United Nations and with the specialized agencies to obtain reports on the steps taken to give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly.

2. It may communicate its observations on these reports to the General Assembly.

ARTICLE 65

The Economic and Social Council may furnish information to the Security Council and shall assist the Security Council upon its request.

ARTICLE 66

1. The Economic and Social Council shall perform such functions as fall within its competence in connection with the carrying out of the recommendations of the General Assembly.
2. It may, with the approval of the General Assembly, perform services at the request of Members of the United Nations and at the request of specialized agencies.
3. It shall perform such other functions as are specified elsewhere in the present Charter or as may be assigned to it by the General Assembly.

Voting

ARTICLE 67

1. Each member of the Economic and Social Council shall have one vote.
2. Decisions of the Economic and Social Council shall be made by a majority of the members present and voting.

Procedure

ARTICLE 68

The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.

ARTICLE 69

The Economic and Social Council shall invite any Member of the United Nations to participate, without vote, in its deliberations on any matter of particular concern to that Member.

ARTICLE 70

The Economic and Social Council may make arrangements for representatives of the specialized agencies to participate, without vote, in its deliberations and in those of the commissions established by it, and for its representatives to participate in the deliberations of the specialized agencies.

ARTICLE 71

The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned.

ARTICLE 72

1. The Economic and Social Council shall adopt its own rules of procedure, including the method of selecting its President.

2. The Economic and Social Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

CHAPTER XI—DECLARATION REGARDING NON-SELF-GOVERNING TERRITORIES

ARTICLE 73

Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;

b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;

c. to further international peace and security;

d. to promote constructive measures of development, to encourage research, and to cooperate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and

e. to transmit regularly to the Secretary-General for information purposes subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

ARTICLE 74

Members of the United Nations also agree that their policy in respect of the territories to which this Chapter applies, no less than in respect of their metropolitan areas, must be based on the general principle of good-neighborliness, due account being taken of the interests and well-being of the rest of the world, in social, economic, and commercial matters.

CHAPTER XII—INTERNATIONAL TRUSTEESHIP SYSTEM

ARTICLE 75

The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as trust territories.

ARTICLE 76

The basic objectives of the trusteeship system, in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be:

a. to further international peace and security;

b. to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;

c. to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and

d. to ensure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

ARTICLE 77

1. The trusteeship system shall apply to such territories in the following categories as may be placed thereunder by means of trusteeship agreements:

a. territories now held under mandate;

b. territories which may be detached from enemy states as a result of the Second World War; and

c. territories voluntarily placed under the system by states responsible for their administration.

2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms.

ARTICLE 78

The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality.

ARTICLE 79

The terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the states directly concerned, including the mandatory power in the case of territories held under mandate by a Member of the United Nations, and shall be approved as provided for in Articles 83 and 85.

ARTICLE 80

1. Except as may be agreed upon in individual trusteeship agreements, made under Articles 77, 79, and 81, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties.

2. Paragraph 1 of this Article shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing mandated and other territories under the trusteeship system as provided for in Article 77.

ARTICLE 81

The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more states or the Organization itself.

ARTICLE 82

There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, without prejudice to any special agreement or agreements made under Article 43.

ARTICLE 83

1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.

2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.

3. The Security Council shall, subject to the provisions of the trsuteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas.

ARTICLE 84

It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligations toward the Security Council undertaken in this regard by the administering authority, as well as for local defense and the maintenance of law and order within the trust territory.

ARTICLE 85

1. The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly.

2. The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions.

CHAPTER XIII—THE TRUSTEESHIP COUNCIL

Composition

ARTICLE 86

1. The Trusteeship Council shall consist of the following Members of the United Nations:

   a. those Members administering trust territories;

   b. such of those Members mentioned by name in Article 23 as are not administering trust territories; and

   c. as many other Members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer trust territories and those which do not.

2. Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.

Functions and Powers

ARTICLE 87

The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may:

a. consider reports submitted by the administering authority;

b. accept petitions and examine them in consultation with the administering authority;

c. provide for periodic visits to the respective trust territories at times agreed upon with the administering authority; and

d. take these and other actions in conformity with the terms of the trusteeship agreements.

ARTICLE 88

The Trusteeship Council shall formulate a questionnaire on the political, economic, social, and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such questionnaire.

Voting

ARTICLE 89

1. Each member of the Trusteeship Council shall have one vote.

2. Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.

Procedure

ARTICLE 90

1. The Trusteeship Council shall adopt its own rules of procedure, including the method of selecting its President.

2. The Trusteeship Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

ARTICLE 91

The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialized agencies in regard to matters with which they are respectively concerned.

CHAPTER XIV—THE INTERNATIONAL COURT OF JUSTICE

ARTICLE 92

The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms as integral part of the present Charter.

ARTICLE 93

1. All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.

2. A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendaiton of the Security Council.

ARTICLE 94

1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.

2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

ARTICLE 95

Nothing in the present Charter shall prevent Members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

ARTICLE 96

1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

CHAPTER XV—THE SECRETARIAT

ARTICLE 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

ARTICLE 98

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

ARTICLE 99

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

ARTICLE 100

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any goverment or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

2. Each Member of the United Nations undertakes to respect the exclusive international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

ARTICLE 101

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.

2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.

3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

CHAPTER XVI—MISCELLANEOUS PROVISIONS

ARTICLE 102

1. Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it.

2. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of this Article may invoke that treaty or agreement before any organ of the United Nations.

ARTICLE 103

In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

ARTICLE 104

The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes.

ARTICLE 105

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes.

2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

CHAPTER XVII—TRANSITIONAL SECURITY ARRANGEMENTS

ARTICLE 106

Pending the coming into force of such special agreements referred to in Article 43 as in the opinion of the Security Council enable it to begin the exercise of its responsibilities under Article 42, the parties to the Four-Nation Declaration, signed in Moscow, October 30, 1943, and France, shall, in accordance with the provisions of paragraph 5 of that Declaration, consult with one another and as occasion requires with other Members of the United Nations with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.

ARTICLE 107

Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action.

CHAPTER XVIII—AMENDMENTS

ARTICLE 108

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council.

ARTICLE 109 [8]

1. A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any nine members of the Security Council. Each Member of the United Nations shall have one vote in the conference.

2. Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations including all the permanent members of the Security Council.

3. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council.

CHAPTER XIX—RATIFICATION AND SIGNATURE

ARTICLE 110

1. The present Charter shall be ratified by the signatory states in accordance with their respective constitutional processes.

2. The ratification shall be deposited with the Government of the United States of America, which shall notify all the signatory states of each deposit as well as the Secretary-General of the Organization when he has been appointed.

3. The present Charter shall come into force upon the deposit of ratifications by the Republic of China, France, the Union of Soviet

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[8] See footnote 5 on p. 713.

Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, and by a majority of other signatory states. A protocol of the ratifications deposited shall thereupon be drawn up by the Government of the United States of America which shall communicate copies thereof to all the signatory states.

4. The states signatory to the present Charter which ratify it after it has come into force will become original Members of the United Nations on the date of the deposit of their respective ratifications.

ARTICLE 111

The present Charter, of which the Chinese, French, Russian, English, and Spanish texts are equally authentic, shall remain deposited in the archives of the Government of the United States of America. Duly certified copies thereof shall be transmitted by that Government to the Governments of the other signatory states.

2. Statute of the International Court of Justice [1] (with reservation) [2]

Signed at San Francisco June 26, 1945; ratification advised by the Senate of the United States of America July 28, 1945; ratified by the President of the United States of America August 8, 1945; ratification deposited August 8, 1945; proclaimed by the President of the United States of America October 31, 1945; effective October 24, 1945

ARTICLE 1

The International Court of Justice established by the Charter of the United Nations as the principle judicial organ of the United Nations shall be constituted and shall function in accordance with the provisions of the present Statute.

CHAPTER I—ORGANIZATION OF THE COURT

ARTICLE 2

The Court shall be composed of a body of independent judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law.

ARTICLE 3

1. The Court shall consist of fifteen members, no two of whom may be nationals of the same state.

2. A person who for the purposes of membership in the Court could be regarded as a national of more than one state shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights.

ARTICLE 4

1. The members of the Court shall be elected by the General Assembly and by the Security Council from a list of persons nominated by the national groups in the Permanent Court of Arbitration, in accordance with the following provisions.

2. In the case of Members of the United Nations not represented in the Permanent Court of Arbitration, candidates shall be nominated by national groups appointed for this purpose by their governments under the same conditions as those prescribed for members of the Permanent Court of Arbitration by Article 44 of the

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[1] 59 Stat. 1055; TS 993: 3 Bevans 1153. Also see chapter XIV of the Chapter of the United Nations. The Statute of the International Court of Justice is annexed to the Charter of the United Nations.

[2] Declaration with Connally Reservation signed by the President August 14, 1946 (61 Stat. 1218; TIAS 1598; 4 Bevans 140; UNTS 9.) See page 745 for reservation.

Convention of The Hague of 1907 for the pacific settlement of international disputes.

3. The conditions under which a state which is a party to the present Statute but is not a Member of the United Nations may participate in electing the members of the Court shall, in the absence of a special agreement, be laid down by the General Assembly upon recommendation of the Security Council.

ARTICLE 5

1. At least three months before the date of the election, the Secretary-General of the United Nations shall address a written request to the members of the Permanent Court of Arbitration belonging to the states which are parties to the present Statute, and to the members of the national groups appointed under Article 4, paragraph 2, inviting them to undertake, within a given time, by national groups, the nomination of persons in a position to accept the duties of a member of the Court.

2. No group may nominate more than four persons, not more than two of whom shall be of their own nationality. In no case may the number of candidates nominated by a group be more than double the number of seats to be filled.

ARTICLE 6

Before making these nominations, each national group is recommended to consult its highest court of justice, its legal faculties and schools of law, and its national academies and national sections of international academies devoted to the study of law.

ARTICLE 7

1. The Secretary-General shall prepare a list in alphabetical order of all the persons thus nominated. Save as provided in article 12, paragraph 2, these shall be the only persons eligible.

2. The Secretary-General shall submit this list to the General Assembly and to the Security Council.

ARTICLE 8

The General Assembly and the Security Council shall proceed independently of one another to elect the members of the Court.

ARTICLE 9

At every election, the electors shall bear in mind not only that the persons to be elected should individually possess the qualifications required, but also that in the body as a whole the representation of the main forms of civilization and of the principal legal systems of the world should be assured.

ARTICLE 10

1. Those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council shall be considered as elected.

2. Any vote of the Security Council, whether for the election of judges or for the appointment of members of the conference envis-

aged in article 12, shall be taken without any distinction between permanent and non-permanent members of the Security Council.

3. In the event of more than one national of the same state obtaining an absolute majority of the votes both of the General Assembly and of the Security Council, the eldest of these only shall be considered as elected.

ARTICLE 11

If, after the first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place.

ARTICLE 12

1. If, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the General Assembly and three by the Security Council, may be formed at any time at the request of either the General Assembly or the Security Council, for the purpose of choosing by the vote of an absolute majority one name for each seat still vacant, to submit to the General Assembly and the Security Council for their respective acceptance.

2. If the joint conference is unanimously agreed upon any person who fulfills the required conditions, he may be included in its list, even though he was not included in the list of nominations referred to in Article 7.

3. If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been elected shall, within a period to be fixed by the Security Council, proceed to fill the vacant seats by selection from among those candidates who have obtained votes either in the General Assembly or in the Security Council.

4. In the event of an equality of votes among the judges, the eldest judge shall have a casting vote.

ARTICLE 13

1. The members of the Court shall be elected for nine years and may be re-elected; provided, however, that of the judges elected at the first election, the terms of five judges shall expire at the end of three years and the terms of five more judges shall expire at the end of six years.

2. The judges whose terms are to expire at the end of the above-mentioned initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General immediately after the first election has been completed.

3. The members of the Court shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun.

4. In the case of the resignation of a member of the Court, the resignation shall be addressed to the President of the Court for transmission to the Secretary-General. This last notification makes the place vacant.

ARTICLE 14

Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provision: the Secretary-General shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in Article 5, and the date of the election shall be fixed by the Security Council.

ARTICLE 15

A member of the Court elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

ARTICLE 16

1. No member of the Court may exercise any political or administrative function, or engage in any other occupation of a professional nature.
2. Any doubt on this point shall be settled by the decision of the Court.

ARTICLE 17

1. No member of the Court may act as agent, counsel, or advocate in any case.
2. No member may participate in the decision of any case in which he has previously taken part as agent, counsel, or advocate for one of the parties, or as a member of a national or international court, or of a commission of enquiry, or in any other capacity.
3. Any doubt on this point shall be settled by the decision of the Court.

ARTICLE 18

1. No member of the Court can be dismissed unless, in the unanimous opinion of the other members, he has ceased to fulfill the required conditions.
2. Formal notification thereof shall be made to the Secretary-General by the Registrar.
3. This notification makes the place vacant.

ARTICLE 19

The members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities.

ARTICLE 20

Every member of the Court shall, before taking up his duties, make a solemn declaration in open court that he will exercise his powers impartially and conscientiously.

ARTICLE 21

1. The Court shall elect its President and Vice-President for three years; they may be re-elected.
2. The Court shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.

ARTICLE 22

1. The seat of the Court shall be established at The Hague. This, however, shall not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable.

2. The President and the Registrar shall reside at the seat of the Court.

ARTICLE 23

1. The Court shall remain permanently in session, except during the judicial vacations, the dates and duration of which shall be fixed by the Court.

2. Members of the Court are entitled to periodic leave, the dates and duration of which shall be fixed by the Court, having in mind the distance between The Hague and the home of each judge.

3. Members of the Court shall be bound, unless they are on leave or prevented from attending by illness or other serious reasons duly explained to the President, to hold themselves permanently at the disposal of the Court.

ARTICLE 24

1. If, for some special reason, a member of the Court considers that he should not take part in the decision of a particular case, he shall so inform the President.

2. If the President considers that for some special reason one of the members of the Court should not sit in a particular case, he shall give him notice accordingly.

3. If in any such case the member of the Court and the President disagree, the matter shall be settled by the decision of the Court.

ARTICLE 25

1. The full Court shall sit except when it is expressly provided otherwise in the present Statute.

2. Subject to the condition that the number of judges available to constitute the Court is not thereby reduced below eleven, the Rules of the Court may provide for allowing one or more judges, according to circumstances and in rotation, to be dispensed from sitting.

3. A quorum of nine judges shall suffice to constitute the Court.

ARTICLE 26

1. The Court may from time to time form one or more chambers, composed of three or more judges as the Court may determine, for dealing with particular categories of cases; for example, labor cases and cases relating to transit and communications.

2. The Court may at any time form a chamber for dealing with a particular case. The number of judges to constitute such a chamber shall be determined by the Court with the approval of the parties.

3. Cases shall be heard and determined by the chambers provided for in this Article if the parties so request.

ARTICLE 27

A judgment given by any of the chambers provided for in Articles 26 and 29 shall be considered as rendered by the Court.

ARTICLE 28

The chambers provided for in Articles 26 and 29 may, with the consent of the parties, sit and exercise their functions elsewhere than at The Hague.

ARTICLE 29

With a view to the speedy dispatch of business, the Court shall form annually a chamber composed of five judges which, at the request of the parties, may hear and determine cases by summary procedure. In addition, two judges shall be selected for the purpose of replacing judges who find it impossible to sit.

ARTICLE 30

1. The Court shall frame rules for carrying out its function. In particular, it shall lay down rules of procedure.
2. The Rules of the Court may provide for assessors to sit with the Court or with any of its chambers, without the right to vote.

ARTICLE 31

1. Judges of the nationality of each of the parties shall retain their right to sit in the case before the Court.
2. If the Court includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person to sit as judge. Such person shall be chosen preferably from among those persons who have been nominated as candidates as provided in Articles 4 and 5.
3. If the Court includes upon the Bench no judge of the nationality of the parties, each of these parties may proceed to choose a judge as provided in paragraph 2 of this Article.
4. The provisions of this Article shall apply to the case of Articles 26 and 29. In such cases, the President shall request one or, if necessary, two of the members of the Court of the nationality of the parties concerned, and, failing such, or if they are unable to be present, to the judges specially chosen by the parties.
5. Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only. Any doubt upon this point shall be settled by the decision of the Court.
6. Judges chosen as laid down in paragraphs 2, 3, and 4 of this Article shall fulfill the conditions required by Articles 2, 17 (paragraph 2), 20, and 24 of the present Statute. They shall take part in the decision on terms of complete equality with their colleagues.

ARTICLE 32

1. Each member of the Court shall receive an annual salary.
2. The President shall receive a special annual allowance.
3. The Vice-President shall receive a special allowance for every day on which he acts as President.
4. The judges chosen under Article 31, other than members of the Court, shall receive compensation for each day on which they exercise their functions.

5. These salaries, allowances, and compensation shall be fixed by the General Assembly. They may not be decreased during the term of office.

6. The salary of the Registrar shall be fixed by the General Assembly on the proposal of the Court.

7. Regulations made by the General Assembly shall fix the conditions under which retirement pensions may be given to members of the Court and to the Registrar, and the conditions under which members of the Court and the Registrar shall have their traveling expenses refunded.

8. The above salaries, allowances, and compensation shall be free of all taxation.

ARTICLE 33

The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly.

CHAPTER II—COMPETENCE OF THE COURT

ARTICLE 34

1. Only states may be parties before the Court.

2. The Court, subject to and in conformity with its Rules, may request of public international organizations information relevant to cases before it, and shall receive such information presented by such organizations on their own initiative.

3. Whenever the construction of the constituent instrument of a public international organization or of an international convention adopted thereunder is in question in a case before the Court, the Registrar shall so notify the public international organization concerned and shall communicate to it copies of all the written proceedings.

ARTICLE 35

1. The Court shall be open to the states parties to the present Statute.

2. The conditions under which the Court shall be open to other states shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.

3. When a state which is not a Member of the United Nations is a party to a case, the Court shall fix the amount which that party is to contribute towards the expenses of the Court. This provision shall not apply if such state is bearing a share of the expenses of the Court.

ARTICLE 36

1. The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specifically provided for in the Charter of the United Nations or in treaties and conventions in force.

2. The states parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without spe-

cial agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

a. the interpretation of a treaty;

b. any question of international law;

c. the existence of any fact which, if established, would constitute a breach of an international obligation;

d. the nature or extent of the reparation to be made for the breach of an international obligation.

3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain states, or for a certain time.

4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.

5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances to the compulsory jurisdiction of the International Court of Justice for the period which they still have to run in accordance with their terms.

6. In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

ARTICLE 37

Whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the Permanent Court of International Justice, the matter shall, as between the parties to the present Statute, be referred to the International Court of Justice.

ARTICLE 38

1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:

a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;

b. international custom, as evidence of a general practice accepted as law;

c. the general principles of law recognized by civilized nations;

d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono,* if the parties agree thereto.

CHAPTER III—PROCEDURE

ARTICLE 39

1. The official languages of the Court shall be French and English. If the parties agree that the case shall be conducted in French, the judgment shall be delivered in French. If the parties

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agree that the case shall be conducted in English, the judgment shall be delivered in English.

2. In the absence of an agreement as to which language shall be employed, each party may, in the pleadings, use the language which it prefers; the decision of the Court shall be given in French and English. In this case the Court shall at the same time determine which of the two texts shall be considered as authoritative.

3. The Court shall, at the request of any party, authorize a language other than French or English to be used by that party.

ARTICLE 40

1. Cases are brought before the Court, as the case may be, either by the notification of the special agreement or by a written application addressed to the Registrar. In either case the subject of the dispute and the parties shall be indicated.

2. The Registrar shall forthwith communicate the application to all concerned.

3. He shall also notify the Members of the United Nations through the Secretary-General, and also any other states entitled to appear before the Court.

ARTICLE 41

1. The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party.

2. Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and to the Security Council.

ARTICLE 42

1. The parties shall be represented by agents.

2. They may have the assistance of counsel or advocates before the Court.

3. The agents, counsel, and advocates of parties before the Court shall enjoy the privileges and immunities necessary to the independent exercise of their duties.

ARTICLE 43

1. The procedure shall consist of two parts: written and oral.

2. The written proceedings shall consist of the communication to the Court and to the parties of memorials, counter-memorials and, if necessary, replies; also all papers and documents in support.

3. These communications shall be made through the Registrar, in the order and within the time fixed by the Court.

4. A certified copy of every document produced by one party shall be communicated to the other party.

5. The oral proceedings shall consist of the hearing by the Court of witnesses, experts, agents, counsel, and advocates.

ARTICLE 44

1. For the service of all notices upon persons other than the agents, counsel, and advocates, the Court shall apply direct to the government of the state upon whose territory the notice has to be served.

2. The same provision shall apply whenever steps are to be taken to procure evidence on the spot.

ARTICLE 45

The hearing shall be under the control of the President or, if he is unable to preside, of the Vice-President; if neither is able to preside, the senior judge present shall preside.

ARTICLE 46

The hearing in Court shall be public, unless the Court shall decide otherwise, or unless the parties demand that the public be not admitted.

ARTICLE 47

1. Minutes shall be made at each hearing and signed by the Registrar and the President.
2. These minutes alone shall be authentic.

ARTICLE 48

The Court shall make orders for the conduct of the case, shall decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

ARTICLE 49

The Court may, even before the hearing begins, call upon the agents to produce any document or to supply any explanations. Formal note shall be taken of any refusal.

ARTICLE 50

The Court may, at any time, entrust any individual, body, bureau, commission, or other organization that it may select, with the task of carrying out an enquiry or giving an expert opinion.

ARTICLE 51

During the hearing any relevant questions are to be put to the witnesses and experts under the conditions laid down by the Court in the rules of procedure referred to in Article 30.

ARTICLE 52

After the Court has received the proofs and evidence within the time specified for the purpose, it may refuse to accept any further oral or written evidence that one party may desire to present unless the other side consents.

ARTICLE 53

1. Whenever one of the parties does not appear before the Court, or fails to defend its case, the other party may call upon the Court to decide in favor of its claim.
2. The Court must, before doing so, satisfy itself, not only that it has jurisdiction in accordance with Articles 36 and 37, but also that the claim is well founded in fact and law.

ARTICLE 54

1. When, subject to the control of the Court, the agents, counsel, and advocates have completed their presentation of the case, the President shall declare the hearing closed.

2. The Court shall withdraw to consider the judgment.

3. The deliberations of the Court shall take place in private and remain secret.

ARTICLE 55

1. All questions shall be decided by a majority of the judges present.

2. In the event of an equality of votes, the President or the judge who acts in his place shall have a casting vote.

ARTICLE 56

1. The judgment shall state the reasons on which it is based.

2. It shall contain the names of the judges who have taken part in the decision.

ARTICLE 57

If the judgment does not represent in whole or in part the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.

ARTICLE 58

The judgment shall be signed by the President and by the Registrar. It shall be read in open court, due notice having been given to the agents.

ARTICLE 59

The decision of the Court has no binding force except between the parties and in respect of that particular case.

ARTICLE 60

The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party.

ARTICLE 61

1. An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence.

2. The proceedings for revision shall be open by a judgment of the Court expressly recording the existence of the new fact, recognizing that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.

3. The Court may require previous compliance with the terms of the judgment before it admits proceedings in revision.

4. The application for revision must be made at least within six months of the discovery of the new fact.

5. No application for revision may be made after the lapse of ten years from the date of the judgment.

ARTICLE 62

1. Should a state consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene.

2. It shall be for the Court to decide upon this request.

ARTICLE 63

1. Whenever the construction of a convention to which states other than those concerned in the case are parties is in question, the Registrar shall notify all such states forthwith.

2. Every state so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgment will be equally binding upon it.

ARTICLE 64

Unless otherwise decided by the Court, each party shall bear its own costs.

CHAPTER IV—ADVISORY OPINIONS

ARTICLE 65

1. The Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request.

2. Questions upon which the advisory opinion of the Court is asked shall be laid before the Court by means of a written request containing an exact statement of the question upon which an opinion is required, and accompanied by all documents likely to throw light upon the question.

ARTICLE 66

1. The Registrar shall forthwith give notice of the request for an advisory opinion to all states entitled to appear before the Court.

2. The Registrar shall also, by means of a special and direct communication, notify any state entitled to appear before the Court or international organization considered by the Court, or, should it not be sitting, by the President, as likely to be able to furnish information on the question, that the Court will be prepared to receive, within a time limit to be fixed by the President, written statements, or to hear, at a public sitting to be held for the purpose, oral statements relating to the question.

3. Should any such state entitled to appear before the Court have failed to receive the special communication referred to in paragraph 2 of this Article, such state may express a desire to submit a written statement or to be heard; and the Court will decide.

4. States and organizations having presented written or oral statements or both shall be permitted to comment on the state-

ments made by other states or organizations in the form, to the extent, and within the time limits which the Court, or, should it not be sitting, the President, shall decide in each particular case. Accordingly, the Registrar shall in due time communicate any such written statements to states and organizations having submitted similar statements.

ARTICLE 67

The Court shall deliver its advisory opinions in open court, notice having been given to the Secretary-General and to the representatives of Members of the United Nations, of other states and of international organizations immediately concerned.

ARTICLE 68

In the exercise of its advisory functions the Court shall further be guided by the provisions of the present Statute which apply in contentious cases to the extent to which it recognizes them to be applicable.

CHAPTER V—AMENDMENT

ARTICLE 69

Amendments to the present Statute shall be effected by the same procedure as is provided by the Charter of the United Nations for amendments to that Charter, subject however to any provisions which the General Assembly upon recommendation of the Security Council may adopt concerning the participation of states which are parties to the present Statute but are not Members of the United Nations.

ARTICLE 70

The Court shall have power to propose such amendments to the present Statute as it may deem necessary, through written communications to the Secretary-General, for consideration in conformity with the provisions of Article 69.

Acceptance of Compulsory Jurisdiction of International Court of Justice, with Reservation (Connally)[3]

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the deposit by the President of the United States with the Secretary-General of the United Nations, of a declaration under paragraph 2 of article 36 of the Statute of the International Court of Justice recognizing as compulsory ipso facto and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes hereafter arising concerning—

a. the interpretation of a treaty;

b. any question of international law;

c. the existence of any fact which, if established, would constitute a breach of an international obligation;

d. the nature or extent of the reparation to be made for the breach of an international obligation.

Provided, That such declaration shall not apply to—

a. disputes the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future;

b. disputes with regard to matters which are essentially within the domestic jurisdiction of the United States as determined by the United States;[4] or

c. disputes arising under a multilateral treaty, unless (1) all parties to the treaty affected by the decision are also parties to the case before the Court, or (2) the United States specially agrees to jurisdiction.

Provided further, That such declaration shall remain in force for a period of five years and thereafter until the expiration of six months after notice may be given to terminate the declaration.

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[3] Senate Resolution 196, 79th Congress, adopted Aug. 3, 1946, 61 Stat. 1218.

[4] The words "as determined by the United States" are often termed the "Connally Reservation."

Truman Declaration Respecting Compulsory Jurisdiction

Declaration by the President of the United States of America August 14, 1946 respecting recognition by the United States of America of the compulsory jurisdiction of the International Court of Justice. Deposited with the Secretary General of the United Nations August 26, 1946.

DECLARATION ON THE PART OF THE UNITED STATES OF AMERICA

I,[1] Harry S. Truman, President of the United States of America, declare on behalf of the United States of America, under Article 36, paragraph 2, of the Statute of the International Court of Justice, and in accordance with the Resolution of August 2, 1946, of the Senate of the United States of America (two-thirds of the Senators present concurring therein), that the United States of America recognizes as compulsory *ipso facto* and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes hereafter arising concerning.

a. the interpretation of a treaty;

b. any question of international law;

c. the existence of any fact which, if established, would constitute a breach of an international obligation;

d. the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, that this declaration shall not apply to

a. disputes the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future; or

b. disputes with regard to matters which are essentially within the domestic jurisdiction of the United States of America as determined by the United States of America; or

c. disputes arising under a multilateral treaty, unless (1) all parties to the treaty affected by the decision are also parties to the case before the Court, or (2) the United States of America specially agrees to jurisdiction; and

Provided further, that this declaration shall remain in force for a period of five years and thereafter until the expiration of six months after notice may be given to terminate this declaration.

Done at Washington this fourteenth day of August 1946.

HARRY S. TRUMAN.

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[1] T.I.A.S. 1598.

United States Modification Respecting Compulsory Jurisdiction

6 April 1984.

I have the honor on behalf of the Government of the United States of America to refer to the Declaration of my Government of August 26, 1946, concerning the acceptance of the United States of America of the compulsory jurisdiction of the International Court of Justice, and to state that the aforesaid Declaration shall not apply to disputes with any Central American State or arising out of or related to events in Central America, any of which disputes shall be settled in such manner as the parties to them may agree.

Notwithstanding the terms of the aforesaid Declaration, this *proviso* shall take effect immediately and shall remain in force for two years, so as to foster the continuing regional dispute settlement process which seeks a negotiated solution to the interrelated political, economic and security problems of Central America.

(*Signed*) GEORGE SHULTZ,
Secretary of State of the
United States of America.

United States Termination of Declaration Respecting Compulsory Jurisdiction

Dear Mr. Secretary-General: I[1] have the honor on behalf of the Government of the United States of America to refer to the declaration of my Government of 26 August 1946, as modified by my note of 6 April 1984, concerning the acceptance by the United States of America of the compulsory jurisdiction of the International Court of Justice, and to state that the aforesaid declaration is hereby terminated, with effect six months from the date hereof.

Sincerely yours,

(S) George P. Shultz.

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[1] The above note was delivered to the Secretary-General of the United Nations at 10:30 AM. October 7, 1985.

3. Agreement Between the United Nations and the United States of America Regarding the Headquarters of the United Nations[1] (amended)

THE UNITED NATIONS AND THE UNITED STATES OF AMERICA:

Desiring to conclude an agreement for the purpose of carrying out the Resolution adopted by the General Assembly on 14 December 1946 to establish the seat of the United Nations in The City of New York and to regulate questions arising as a result thereof;

Have appointed as their representatives for this purpose:

The United Nations:
TRYGVE LIE,
Secretary-General,

and

The United States of America:
GEORGE C. MARSHALL,
Secretary of State,

Who have agreed as follows:

ARTICLE I—DEFINITIONS

SECTION 1

In this agreement:

(a) the expression "headquarters district" means (1) the area defined as such in Annex 1, (2) any other lands or buildings which from time to time may be included therein by supplemental agreement with the appropriate American authorities;[2]

(b) the expression "appropriate American authorities" means such federal, state, or local authorities in the United States as may be appropriate in the context and in accordance with the laws and customs of the United States, including the laws and customs of the state and local government involved;

(c) the expression "General Convention" means the Convention on the Privileges and Immunities of the United Nations approved by the General Assembly of the United Nations 13 February 1946, as acceded to by the United States;

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[1] 61 Stat. 3416; TIAS 1899; 11 UNTS 11. The agreement was signed June 26, 1947 and brought into effect on November 21, 1947, by an exchange of notes between the United States Representative to the United Nations, under instruction of the President and the Secretary-General of the United Nations.

[2] An agreement supplementing the original agreement was signed at New York, February 9, 1966, and entered into force the same day (17 UST 74; TIAS 5961). The agreement adds new land to that described in Annex I of the original agreement signed June 26, 1947 in order to accommodate the United Nation's expanding needs. The additions include another building (801 United Nations Plaza) and part of the Alcoa Plaza Associates Building.

This supplement was amended by an agreement signed at New York December 8, 1966 and entered into force the same day (17 UST 2319; TIAS 6176). The agreement adds the sixth floor of the Alcoa Plaza Associates Building to the headquarters district.

On August 28, 1969 an agreement supplementing the Headquarters Agreement was signed at New York and entered into force (20 UST 2810; TIAS 6750). This added three floors from two other buildings to those above. There was also a clause allowing further additions, if space became available in those two buildings.

(d) the expression "United Nations" means the international organization established by the Charter of the United Nations, hereinafter referred to as the "Charter";

(e) the expression "Secretary-General" means the Secretary- General of the United Nations.

ARTICLE II—THE HEADQUARTERS DISTRICT

SECTION 2

The seat of the United Nations shall be the headquarters district.

SECTION 3

The appropriate American authorities shall take whatever action may be necessary to assure that the United Nations shall not be dispossessed of its property in the headquarters district, except as provided in Section 22 in the event that the United Nations ceases to use the same; provided that the United Nations shall reimburse the appropriate American authorities for any costs incurred, after consultation with the United Nations, in liquidating by eminent domain proceedings or otherwise any adverse claims.

SECTION 4

(a) The United Nations may establish and operate in the headquarters district:

(1) its own short-wave sending and receiving radio broadcasting facilities (including emergency link equipment) which may be used on the same frequencies (within the tolerances prescribed for the broadcasting service by applicable United States regulations) for radiotelegraph, radioteletype, radiotelephone, radiotelephoto, and similar services;

(2) one point-to-point circuit between the headquarters district and the office of the United Nations in Geneva (using single sideband equipment) to be used exclusively for the exchange of broadcasting programs and interoffice communications;

(3) low power micro-wave, low or medium frequency facilities for communication within headquarters buildings only, or such other buildings as may temporarily be used by the United Nations;

(4) facilities for point-to-point communication to the same extent and subject to the same conditions as permitted under applicable rules and regulations for amateur operation in the United States, except that such rules and regulations shall not be applied in a manner consistent with the inviolability of the headquarters district provided by Section 9(a);

(5) such other radio facilities as may be specified by supplemental agreement between the United Nations and the appropriate American authorities.

(b) The United Nations shall make arrangements for the operation of the services referred to in this section with the International Telecommunications Union, the appropriate agencies of the

Government of the United States and the appropriate agencies of other affected governments with regard to all frequencies and similar matters.

(c) The facilities provided for in this section may, to the extent necessary for efficient operation, be established and operated outside the headquarters district. The appropriate American authorities will, on request of the United Nations, make arrangements, on such terms and in such manner as may be agreed upon by supplemental agreement, for the acquisition or use by the United Nations of appropriate premises for such purposes and the inclusion of such premises in the headquarters district.

SECTION 5

In the event that the United Nations should find it necessary and desirable to establish and operate an aerodrome, the conditions for the location, use and operation of such an aerodrome and the conditions under which there shall be entry into and exit therefrom shall be the subject of a supplemental agreement.

SECTION 6

In the event that the United Nations should propose to organize its own postal service, the conditions under which such service shall be set up shall be the subject of a supplemental agreement.

ARTICLE III—LAW AND AUTHORITY IN THE HEADQUARTERS DISTRICT

SECTION 7

(a) The headquarters district shall be under the control and authority of the United Nations as provided in this agreement.

(b) Except as otherwise provided in this agreement or in the General Convention, the federal, state and local law of the United States shall apply within the headquarters district.

(c) Except as otherwise provided in this agreement or in the General Convention, the federal, state and local courts of the United States shall have jurisdiction over acts done and transactions taking place in the headquarters district as provided in applicable federal, state and local laws.

(d) The federal, state and local courts of the United States, when dealing with cases arising out of or relating to acts done or transactions taking place in the headquarters district, shall take into account the regulations enacted by the United Nations under Section 8.

SECTION 8

The United Nations shall have the power to make regulations, operative within the headquarters district, for the purpose of establishing therein conditions in all respects necessary for the full execution of its functions. No federal, state or local law or regulation of the United States which is inconsistent with a regulation of the United Nations authorized by this section shall, to the extent of such inconsistency, be applicable within the headquarters district. Any dispute, between the United Nations and the United States, as to whether a regulation of the United Nations is authorized by this section or as to whether a federal, state or local law or regulation is inconsistent with any regulation of the United Nations authorized by this section, shall be promptly settled as provided in Section 21. Pending such settlement, the regulation of the United Nations shall apply, and the federal, state or local law or regulation shall be inapplicable in the headquarters district to the extent that the United Nations claims it to be inconsistent with the regulation of the United Nations. This section shall not prevent the reasonable application of fire protection regulations of the appropriate American authorities.

SECTION 9

(a) The headquarters district shall be inviolable. Federal, state or local officers or officials of the United States, whether administrative, judicial, military or police, shall not enter the headquarters district to perform any official duties therein except with the consent of and under conditions agreed to by the Secretary-General. The service of legal process, including the seizure of private property, may take place within the headquarters district only with the consent of and under conditions approved by the Secretary- General.

(b) Without prejudice to the provisions of the General Convention or Article IV of this agreement, the United Nations shall prevent the headquarters district from becoming a refuge either for persons who are avoiding arrest under the federal, state, or local law of the United States or are required by the Government of the United States for extradition to another country, or for persons who are endeavoring to avoid service of legal process.

SECTION 10

The United Nations may expel or exclude persons from the headquarters district for violation of its regulations adopted under Section 8 or for other cause. Persons who violate such regulations shall be subject to other penalties or to detention under arrest only in accordance with the provisions of such laws or regulations as may be adopted by the appropriate American authorities.

ARTICLE IV—COMMUNICATIONS AND TRANSIT

SECTION 11

The federal, state or local authorities of the United States shall not impose any impediments to transit to or from the headquarters district of (1) representatives of Members or officials of the United Nations, or of specialized agencies as defined in Article 57, paragraph 2, of the Charter, or the families of such representatives or officials, (2) experts performing missions for the United Nations or for such specialized agencies, (3) representatives of the press, or of radio, film or other information agencies, who have been accredited by the United Nations [illegible] by such a specialized agency) in its discretion after consultation with the United States, (4) representatives of nongovernmental organizations recognized by the United Nations for the purpose of consultation under Article 71 of the Charter, or (5) other persons invited to the headquarters district by the United Nations or by such specialized agency on official business. The appropriate American authorities shall afford any necessary protection to such persons while in transit to or from the headquarters district. This section does not apply to general interruptions of transportation which are to be dealt with as provided in Section 17, and does not impair the effectiveness of generally applicable laws and regulations as to the operation of means of transportation.[3]

SECTION 12

The provisions of Section 11 shall be applicable irrespective of the relations existing between the Governments of the persons referred to in that section and the Government of the United States.

SECTION 13

(a) Laws and regulations in force in the United States regarding the entry of aliens shall not be applied in such manner as to interfere with the privileges referred to in Section 11. When visas are required for persons referred to in that Section, they shall be granted without charge and as promptly as possible.

(b) Laws and regulations in force in the United States regarding the residence of aliens shall not be applied in such manner as to interfere with the privileges referred to in Section 11 and, specifically, shall not be applied in such manner as to require any such person to leave the United States on account of any activities performed by him in his official capacity. In case of abuse of such privileges of residence by any such person in activities in the United States outside his official capacity, it is understood that the privileges referred to in Section 11 shall not be construed to grant him exemption from the laws and regulations of the United States regarding the continued residence of aliens, provided that:

(1) No proceedings shall be instituted under such laws or regulations to require any such person to leave the United States except with the prior approval of the Secretary of State of the United States. Such approval shall be given only after consultation with the appropriate Member in the case of a representative of a Member (or a member of his family) or with the Secretary-General or the principal executive officer of the appropriate specialized agency in the case of any other person referred to in Section 11;

(2) A representative of the Member concerned, the Secretary-General, or the principal executive officer of the appropriate specialized agency, as the case may be, shall have the right to appear in any such proceedings on behalf of the person against whom they are instituted;

(3) Persons who are entitled to diplomatic privileges and immunities under section 15 or under the General Convention shall not be required to leave the United States otherwise than

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[3] See 8 U.S.C. 1101(a)(15)(C), establishing as a nonimmigrant (non quota) alien "an alien who qualifies as a person entitled to pass in transit to and from the United Nations Headquarters District and foreign countries, under the provisions of paragraphs (3), (4) and (5) of sec. 11 of the Headquarters Agreement with the United Nations (61 Stat. 758); * * *".

in accordance with the customary procedure applicable to diplomatic envoys accredited to the United States.

(c) This section does not prevent the requirement of reasonable evidence to establish that persons claiming the rights granted by Section 11 come within the classes described in that section, or the reasonable application of quarantine and health regulations.

(d) Except as provided above in this section and in the General Convention, the United States retains full control and authority over the entry of persons or property into the territory of the United States and the conditions under which persons may remain or reside there.

(e) The Secretary-General shall, at the request of the appropriate American authorities, enter into discussions with such authorities, with a view to making arrangements for registering the arrival and departure of persons who have been granted visas valid only for transit to and from the headquarters district and sojourn therein and in its immediate vicinity.

(f) The United Nations shall, subject to the foregoing provisions of this section, have the exclusive right to authorize or prohibit entry of persons and property into the headquarters district and to prescribe the conditions under which persons may remain or reside there.

SECTION 14

The Secretary-General and the appropriate American authorities shall, at the request of either of them, consult as to methods of facilitating entrance into the United States, and the use of available means of transportation, by persons coming from abroad, who wish to visit the headquarters district and do not enjoy the rights referred to in this Article.

ARTICLE V—RESIDENT REPRESENTATIVES TO THE UNITED NATIONS

SECTION 15

(1) Every person designated by a Member as the principal resident representative to the United Nations of such Member or as a resident representative with the rank of ambassador or minister plenipotentiary,

(2) such resident members of their staffs as may be agreed upon between the Secretary-General, the Government of the United States and the Government of the Member concerned,

(3) every person designated by a Member of a specialized agency, as defined in Article 57, paragraph 2, of the Charter, as its principal resident representative, with the rank of ambassador or minister plenipotentiary, at the headquarters of such agency in the United States, and

(4) such other prinicipal resident representatives of members to a specialized agency and such resident members of the staffs of representatives to a specialized agency as may be agreed upon between the principal executive officer of the specialized agency, the Government of the United States and the Government of the Member concerned, shall, whether residing inside or outside the headquarters district, be entitled in the territory of the United

States to the same privileges and immunities, subject to corresponding conditions and obligations, as it accords to diplomatic envoys accredited to it. In the case of Members whose governments are not recognized by the United States, such privileges and immunities need be extended to such representatives, or persons on the staffs of such representatives, only within the headquarters district, at their residences and offices outside the district, in transit between the district and such residences and offices, and in transit on offical business to or from foreign countries.

ARTICLE VI—POLICE PROTECTION OF THE HEADQUARTERS DISTRICT

SECTION 16

(a) The appropriate American authorities shall exercise due diligence to ensure that the tranquility of the headquarters district is not disturbed by the unauthorized entry of groups of persons from outside or by disturbances in its immediate vicinity and shall cause to be provided on the boundaries of the headquarters district such police protection as is required for these purposes.

(b) If so requested by the Secretary-General, the appropriate American authorities shall provide a sufficient number of police for the preservation of law and order in the headquarters district, and for the removal therefrom of persons as requested under the authority of the United Nations. The United Nations shall, if requested, enter into arrangements with the appropriate American authorities to reimburse them for the reasonable cost of such services.

ARTICLE VII—PUBLIC SERVICES AND PROTECTION OF THE HEADQUARTERS DISTRICT

SECTION 17

(a) The appropriate American authorities will exercise to the extent requested by the Secretary-General the powers which they possess with respect to the supplying of public services to ensure that the headquarters district shall be supplied on equitable terms with the necessary public services, including electricity, water, gas, post, telephone, telegraph, transportation, drainage, collection of refuse, fire protection, snow removal, et cetera. In case of any interruption or threatened interruption of any such services, the appropriate American authorities will consider the needs of the United Nations as being of equal importance with the similar needs of essential agencies of the Government of the United States, and will take steps accordingly, to ensure that the work of the United Nations is not prejudiced.

(b) Special provisions with reference to maintenance of utilities and underground construction are contained in Annex 2.

SECTION 18

The appropriate American authorities shall take all reasonable steps to ensure that the amenities of the headquarters district are not prejudiced and the purposes for which the district is required are not obstructed by any use made of the land in the vicinity of the district. The United Nations shall on its part take all reasonable steps to ensure that the amenities of the land in the vicinity of the headquarters district are not prejudiced by any use made of the land in the headquarters district by the United Nations.

SECTION 19

It is agreed that no form of racial or religious discrimination shall be permitted within the headquarters district.

ARTICLE VIII—MATTERS RELATING TO THE OPERATION OF THIS AGREEMENT

SECTION 20

The Secretary-General and the appropriate American authorities shall settle by agreement the channels through which they will communicate regarding the application of the provisions of this agreement and other questions affecting the headquarters district, and may enter into such supplemental agreements as may be necessary to fulfill the purposes of this agreement. In making supplemental agreements with the Secretary-General, the United States shall consult with the appropriate state and local authorities. If the Secretary-General so requests the Secretary of State of the United States shall appoint a special representative for the purpose of liaison with the Secretary-General.

SECTION 21

(a) Any dispute between the United Nations and the United States concerning the interpretation or application of this agreement or of any supplemental agreement, which is not settled by negotiation or other agreed mode of settlement, shall be referred for final decision to a tribunal of three arbitrators, one to be named by the Secretary-General, one to be named by the Secretary of State of the United States, and the third to be chosen by the two, or, if they should fail to agree upon a third, then by the President of the International Court of Justice.

(b) The Secretary-General or the United States may ask the General Assembly to request of the International Court of Justice an advisory opinion on any legal question arising in the course of such proceedings. Pending the receipt of the opinion of the Court, an interim decision of the arbitral tribunal shall be observed on both parties. Thereafter, the arbitral tribunal shall render a final decision, having regard to the opinion of the Court.

ARTICLE IX—MISCELLANEOUS PROVISIONS

SECTION 22

(a) The United Nations shall not dispose of all or any part of the land owned by it in the headquarters district without the consent of the United States. If the United States is unwilling to consent to a disposition which the United Nations wishes to make of all or any part of such land, the United States shall buy the same from the United Nations at a price to be determined as provided in paragraph (d) of this section.

(b) If the seat of the United Nations is removed from the headquarters district, all right, title and interest of the United Nations in and to real property in the headquarters district or any part of it shall, on request of either the United Nations or the United States, be assigned and conveyed to the United States. In the absence of such request, the same shall be assigned or, if such subdivision shall not desire it, then to the state in which it is located. If none of the foregoing desires the same, it may be disposed of as provided in paragraph (a) of this section.

(c) If the United Nations disposes of all or any part of the headquarters district, the provisions of other sections of this agreement which apply to the headquarters district shall immediately cease to apply to the land and buildings so disposed of.

(d) The price to be paid for any conveyance under this section shall, in default of agreement, be the then fair value of the land, buildings and installations, to be determined under the procedure provided in Section 21.

SECTION 23

The seat of the United Nations shall not be removed from the headquarters district unless the United Nations should so decide.

SECTION 24

This agreement shall cease to be in force if the seat of the United Nations is removed from the territory of the United States, except for such provisions as may be applicable in connection with the orderly termination of the operations of the United Nations at its seat in the United States and the disposition of its property therein.

SECTION 25

Whenever this agreement imposes obligations on the appropriate American authorities, the Government of the United States shall have the ultimate responsibility for the fulfillment of such obligations by the appropriate American authorities.

SECTION 26

The provisions of this agreement shall be complementary to the provisions of the General Convention. In so far as any provision of this agreement and any provisions of the General Convention relate to the same subject matter, the two provisions shall, wherever possible, be treated as complementary, so that both provisions shall be applicable and neither shall narrow the effect of the other; but in any case of absolute conflict, the provisions of this agreement shall prevail.

SECTION 27

This agreement shall be construed in the light of its primary purpose to enable the United Nations at its headquarters in the United States, fully and efficiently to discharge its responsibilities and fulfill its purposes.

SECTION 28

This agreement shall be brought into effect by an exchange of notes between the Secretary-General, duly authorized pursuant to a resolution of the General Assembly of the United Nations, and the appropriate executive officer of the United States, duly authorized pursuant to appropriate action of the Congress.

IN WITNESS WHEREOF the respective representatives have signed this Agreement and have affixed their seals hereto.

DONE in duplicate, in the English and French languages, both authentic, at Lake Success the twenty-sixth day of June 1947.

For the Government of the United States of America:
G. C. MARSHALL
Secretary of State
For the United Nations:
TRYGVE LIE
Secretary-General

ANNEX 1

The area referred to in Section 1(a)(1) consists of (a) the premises bounded on the East by the westerly side of Franklin D. Roosevelt Drive, on the West by the easterly side of First Avenue, on the North by the southerly side of East Forty-eighth Street, and on the South by the northerly side of East Forty-second Street, all as proposed to be widened, in the Borough of Manhattan, City and State of New York, and (b) an easement over Franklin D. Roosevelt Drive, above a lower limiting plane to be fixed for the construction and maintenance of an esplanade, together with the structures thereon and foundation and columns to support the same in locations below such limiting plane, the entire area to be more definitely defined by supplemental agreement between the United Nations and the United States of America.

ANNEX 2—MAINTENANCE OF UTILITIES AND UNDERGROUND CONSTRUCTION

SECTION 1

The Secretary-General agrees to provide passes to duly authorized employees of The City of New York, the State of New York, or any of their agencies or subdivisions, for the purposes of enabling them to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers within the headquarters district.

SECTION 2

Underground constructions may be undertaken by The City of New York, or the State of New York, or any of their agencies or subdivisions, within the headquarters district only after consultation with the Secretary-General, and under conditions which shall not disturb the carrying out of the functions of the United Nations.

SEC. 2. For the purpose of carrying out the obligations of the United States under said agreement and supplemental agreements with respect to United States assurances that the United Nations shall not be dispossessed of its property in the headquarters district, and with respect to the establishment of radio facilities and the possible establishment of an airport:

(a) The President of the United States, or any official or governmental agency authorized by the President, may acquire in the name of the United States any property or interest therein by purchase, donation, or other means of transfer, or may cause proceedings to be instituted for the acquisition of the same by condemnation.

(b) Upon the request of the President, or such officer as the President may designate, the Attorney General of the United States shall cause such condemnation or other proceedings to be instituted in the name of the United States in the district court of the United States for the district in which the property is situated and such court shall have full jurisdiction of such proceedings, and any condemnation proceedings shall be conducted in accordance with the Act of August 1, 1888 (25 Stat. 357), as amended, and the Act of February 26, 1931 (46 Stat. 1421), as amended.

(c) After the institution of any such condemnation proceedings, possession of the property may be taken at any time the President, or such officer as he may designate, determines is necessary, and the court shall enter such orders as may be necessary to effect entry and occupancy of the property.

(d) The President of the United States, or any officer or governmental agency duly authorized by the President, may, in the name of the United States, transfer or convey possession of and title to any interest in any property acquired or held by the United States, pursuant to paragraph (a) above, to the United Nations on the terms provided in the agreement or in any supplemental agreement, and shall execute and deliver such conveyances and other instruments and perform such other acts in connection therewith as may be necessary to carry out the provisions of the agreement.

(e) There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be required to enable the United States to carry out the undertakings hereby authorized: *Provided*, That any money appropriated under this authorization shall be spent only on a basis of reimbursement by the United Nations in accordance with section 3 of the agreement, and that the money thus reimbursed shall be deposited and covered into the Treasury of the United States as miscellaneous receipts.

SEC. 3. The President, or the Secretary of State under his direction, is authorized to enter into agreements with the State of New York or any other State of the United States and to the extent not inconsistent with State law, with any one or more of the political subdivisions thereof in aid of effectuating the provisions of the agreement.

SEC. 4. Any States, or, to the extent not inconsistent with State law, any political subdivisions thereof, affected by the establishment of the headquarters of the United Nations in the United States are authorized to enter into agreements with the United Nations or with each other consistent with the agreement and for the purpose of facilitating compliance with the same: *Provided*, That, except in cases of emergency and agreements of a routine contractual character, a representative of the United States, to be appointed by the Secretary of State, may, at the discretion of the Secretary of State, participate in the negotiations, and that any such agreement entered into by such State or States or political subdivisions thereof shall be subject to approval by the Secretary of State.

SEC. 5. The President is authorized to make effective with respect to the temporary headquarters of the United Nations in the State of New York, on a provisional basis, such of the provisions of the agreement as he may deem appropriate, having due regard for the needs of the United Nations at its temporary headquarters.

SEC. 6. Nothing in the agreement shall be construed as in any way diminishing, abridging, or weakening the right of the United States to safeguard its own security and completely to control the entrance of aliens into any territory of the United States other than the headquarters district and its immediate vicinity, as to be defined and fixed in a supplementary agreement between the Government of the United States and the United Nations in pursuance of section 13(3)(e) of the agreement and such areas as it is reasonably necessary to traverse in transit between the same and foreign countries. Moreover, nothing in section 14 of the agreement with respect to facilitating entrance into the United States by persons who wish to visit the headquarters district and do not enjoy the right of entry provided in section 11 of the agreement shall be construed to amend or suspend in any way the immigration laws of the United States or to commit the United States in any way to effect any amendment or suspension of such law.

4. Convention on Privileges and Immunities of the United Nations [1] (with reservation) [2]

Adopted by the General Assembly of the United Nations February 13, 1946; Ratification advised by the Senate of the United States of America, subject to reservations, March 19, 1970; Ratified by the President of the United States of America, subject to said reservations, April 15, 1970; Accession of the United States of America deposited with the Secretary-General of the United Nations April 29, 1970; Proclaimed by the President of the United States of America July 9, 1970; Entered into force with respect to the United States of America April 29, 1970

WHEREAS Article 104 of the Charter of the United Nations [3] provides that the Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes and

WHEREAS Article 105 of the Charter of the United Nations provides that the Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes and that representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

CONSEQUENTLY the General Assembly by a Resolution adopted on the 13 February 1946, approved the following Convention and proposed it for accession by each Member of the United Nations.

ARTICLE I—JURIDICAL PERSONALITY

SECTION 1

The United Nations shall possess juridical personality. It shall have the capacity:

(a) to contract;

(b) to acquire and dispose of immovable and movable property;

(c) to institute legal proceedings.

ARTICLE II—PROPERTY, FUNDS AND ASSETS

SECTION 2

The United Nations, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except insofar as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

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[1] 21 UST 1418; TIAS 6900; 1 UNTS 16. For a list of states which are parties, see Department of State publication, *Treaties in Force*.

[2] See page 769 for text of reservations.

[3] See page 729 for text

SECTION 3

The premises of the United Nations shall be inviolable. The property and assets of the United Nations, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

SECTION 4

The archives of the United Nations, and in general all documents belonging to it or held by it, shall be inviolable wherever located.

SECTION 5

Without being restricted by financial controls, regulations or moratoria of any kind,

(a) the United Nations may hold funds, gold or currency of any kind and operate accounts in any currency;

(b) the United Nations shall be free to transfer its funds, gold or currency from one country to another or within any country and to convert any currency held by it into any other currency.

SECTION 6

In exercising its rights under Section 5 above, the United Nations shall pay due regard to any representations made by the Government of any Member insofar as it is considered that effect can be given to such representations without detriment to the interests of the United Nations.

SECTION 7

The United Nations, its assets, income and other property shall be:

(a) exempt from all direct taxes; it is understood, however, that the United Nations will not claim exemption from taxes which are, in fact, no more than charges for public utility services;

(b) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the United Nations for its official use. It is understood, however, that articles imported under such exemption will not be sold in the country into which they were imported except under conditions agreed with the Government of that country;

(c) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of its publications.

SECTION 8

While the United Nations will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the United Nations is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, Members will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

ARTICLE III—FACILITIES IN RESPECT OF COMMUNICATIONS

SECTION 9

The United Nations shall enjoy in the territory of each Member for its official communications treatment not less favourable than that accorded by the Government of that Member to any other Government including its diplomatic mission in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications; and press rates for information to the press and radio. No censorship shall be applied to the official correspondence and other official communications of the United Nations.

SECTION 10

The United Nations shall have the right to use codes and to dispatch and receive its correspondence by courier or in bags, which have the same immunities and privileges as diplomatic couriers and bags.

ARTICLE IV—THE REPRESENTATIVES OF MEMBERS

SECTION 11

Representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, shall, while exercising their functions and during their journey to and from the place of meeting, enjoy the following privileges and immunities:

(a) immunity from personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and all acts done by them in their capacity as representatives, immunity from legal process of every kind;

(b) inviolability for all papers and documents;

(c) the right to use codes and to receive papers or correspondence by courier or in sealed bags;

(d) exemption in respect of themselves and their spouses from immigration restrictions, alien registration or national service obligations in the state they are visiting or through which they are passing in the exercise of their functions;

(e) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;

(f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys, and also

(g) such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic envoys enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise than as part of their personal baggage) or from excise duties or sales taxes.

SECTION 12

In order to secure, for the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, complete freedom of speech and independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer the representatives of Members.

SECTION 13

Where the incidence of any form of taxation depends upon residence, periods during which the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations are present in a state for the discharge of their duties shall not be considered as periods of residence.

SECTION 14

Privileges and immunities are accorded to the representatives of Members not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the United Nations. Consequently a Member not only has the right but is under a duty to waive the immunity of its representative in any case where in the opinion of the Member the immunity would impede the course of justice, and it can be waived without prejudice to the purpose for which the immunity is accorded.

SECTION 15

The provisions of Sections 11, 12 and 13 are not applicable as between a representative and the authorities of the state of which he is a national or of which he is or has been the representative.

SECTION 16

In this article the expression "representatives" shall be deemed to include all delegates, deputy delegates, advisers, technical experts and secretaries of delegations.

ARTICLE V—OFFICIALS

SECTION 17

The Secretary-General will specify the categories of officials to which the provisions of this Article and Article VII shall apply. He shall submit these categories to the General Assembly. Thereafter these categories shall be communicated to the Governments of all Members. The names of the officials included in these categories shall from time to time be made known to the Governments of Members.

SECTION 18

Officials of the United Nations shall:

(a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(b) be exempt from taxation on the salaries and emoluments paid to them by the United Nations;

(c) be immune from national service obligations;

(d) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration;

(e) be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions to the Government concerned;

(f) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crisis as diplomatic envoys;

(g) have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question.

SECTION 19

In addition to the immunities and privileges specified in Section 18, the Secretary-General and all Assistant Secretaries-General shall be accorded in respect of themselves, their spouses and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

SECTION 20

Privileges and immunities are granted to officials in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations. In the case of the Secretary-General, the Security Council shall have the right to waive immunity.

SECTION 21

The United Nations shall co-operate at all times with the appropriate authorities of Members to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Article.

ARTICLE VI—EXPERTS ON MISSIONS FOR THE UNITED NATIONS

SECTION 22

Experts (other than officials coming within the scope of Article V) performing missions for the United Nations shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions. In particular they shall be accorded:

(a) immunity from personal arrest or detention and from seizure of their personal baggage;

(b) in respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind. This immunity from legal process shall continue to be accorded notwithstanding that the persons concerned are no longer employed on missions for the United Nations;

(c) inviolability for all papers and documents;

(d) for the purpose of their communications with the United Nations, the right to use codes and to receive papers or correspondence by courier or in sealed bags;

(e) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;

(f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.

SECTION 23

Privileges and immunities are granted to experts in the interest of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any expert in any case where, in his opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the United Nations.

ARTICLE VII—UNITED NATIONS LAISSEZ-PASSER

SECTION 24

The United Nations may issue United Nations laissez-passer to its officials. These laissez-passer shall be recognized and accepted as valid travel documents by the authorities of Members, taking into account the provisions of Section 25.

SECTION 25

Applications for visas (where required) from the holders of United Nations laissez-passer, when accompanied by a certificate that they are travelling on the business of the United Nations, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.

SECTION 26

Similar facilities to those specified in Section 25 shall be accorded to experts and other persons who, though not the holders of United Nations laissez-passer, have a certificate that they are travelling on the business of the United Nations.

SECTION 27

The Secretary-General, Assistant Secretaries-General and Directors travelling on United States laissez-passer on the business of the United Nations shall be granted the same facilities as are accorded to diplomatic envoys.

SECTION 28

The provisions of this article may be applied to the comparable officials of specialized agencies if the agreements for relationship made under Article 63 of the Charter so provide.

ARTICLE VIII—SETTLEMENT OF DISPUTES

SECTION 29

The United Nations shall make provisions for appropriate modes of settlement of:

(a) disputes arising out of contracts of other disputes of a private law character to which the United Nations is a party;

(b) disputes involving any official of the United Nations who by reason of his official position enjoys immunity, if immunity has not been waived by the Secretary-General.

SECTION 30

All differences arising out of the interpretation or application of the present convention shall be referred to the International Court of Justice, unless in any case it is agreed by the parties to have recourse to another mode of settlement. If a difference arises between the United Nations on the one hand and a Member on the other hand, a request shall be made for an advisory opinion on any legal question involved in accordance with Article 96 of the Charter and Article 65 of the Statute of the Court.[4] The opinion given by the Court shall be accepted as decisive by the parties.

FINAL ARTICLE

SECTION 31

This convention is submitted to every Member of the United Nations for accession.

SECTION 32

Accession shall be effected by deposit of an instrument with the Secretary-General of the United Nations and the convention shall come into force as regards each Member on the date of deposit of each instrument of accession.

SECTION 33

The Secretary-General shall inform all Members of the United Nations of the deposit of each accession.

SECTION 34

It is understood that, when an instrument of accession is deposited on behalf of any Member, the Member will be in a position under its own law to give effect to the terms of this convention.

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[4] TS 993; 59 Stat. 1063.

SECTION 35

This convention shall continue in force as between the United Nations and every Member which has deposited an instrument of accession for so long as that Member remains a Member of the United Nations, or until a revised general convention has been approved by the General Assembly and that Member has become a party to this revised convention.

SECTION 36

The Secretary-General may conclude with any Member or Members supplementary agreements adjusting the provisions of this convention so far as that Member or those Members are concerned. These supplementary agreements shall in each case be subject to the approval of the General Assembly.

Reservations as Stated in the Proclamation of the United States

By its resolution of March 19, 1970, the Senate of the United States of America, two-thirds of the Senators present concurring, gave its advice and consent to the ratification of the Convention subject to the following reservations:

(1) Paragraph (b) of section 18 regarding immunity from taxation and paragraph (c) of section 18 regarding immunity from national service obligations shall not apply with respect to United States nationals and aliens admitted for permanent residence.

(2) Nothing in Article IV, regarding the privileges and immunities of representatives of Members, in Article V, regarding the privileges and immunities of United Nations officials, or in Article VI regarding the privileges and immunities of experts on missions for the United Nations, shall be construed to grant any person who has abused his privileges of residence by activities in the United States outside his official capacity exemption from the laws and regulations of the United States regarding the continued residence of aliens, provided that:

(a) No proceedings shall be instituted under such laws or regulations to require any such person to leave the United States except with the prior approval of the Secretary of State of the United States. Such approval shall be given only after consultation with the appropriate Member in the case of a representative of a Member (or a member of his family) or with the Secretary-General in the case of any person referred to in Articles V and VI;

(b) A representative of the Member concerned or the Secretary-General, as the case may be, shall have the right to appear in any such proceedings on behalf of the person against whom they are instituted;

(c) Persons who are entitled to diplomatic privileges and immunities under the Convention shall not be required to leave the United States otherwise than in accordance with the customary procedure applicable to members of diplomatic missions accredited or notified to the United States.

5. Acts of Terrorism and Crimes Against Internationally Protected Persons

a. Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance [1]

Adopted at the 3d Special Session of the OAS General Assembly, Washington, D.C., January 25–February 2, 1971; Ratification advised by the Senate of the United States of America June 12, 1972; Instrument of ratification deposited in the General Secretariat of the Organization of American States October 20, 1976; Entered into force with respect to the United States of America October 20, 1976

WHEREAS, The defense of freedom and justice and respect for the fundamental rights of the individual that are recognized by the American Declaration of the Rights and Duties of Man and the Universal Declaration of Human Rights are primary duties of states;

The General Assembly of the Organization, in Resolution 4, of June 30, 1970, strongly condemned acts of terrorism, especially the kidnapping of persons and extortion in connection with that crime, which it declared to be serious common crimes;

Criminal acts against persons entitled to special protection under international law are occurring frequently, and those acts are of international significance because of the consequences that may flow from them for relations among states;

It is advisable to adopt general standards that will progressively develop international law as regards cooperation in the prevention and punishment of such acts; and

In the application of those standards the institution of asylum should be maintained and, likewise the principle of nonintervention should not be impaired,

THE MEMBER STATES OF THE ORGANIZATION OF AMERICAN STATES HAVE AGREED UPON THE FOLLOWING ARTICLES:

ARTICLE 1

The contracting states undertake to cooperate among themselves by taking all the measures that they may consider effective, under their own laws, and especially those established in this convention, to prevent and punish acts of terrorism, especially kidnapping, murder, and other assaults against the life or physical integrity of those persons to whom the state has the duty according to international law to give special protection, as well as extortion in connection with those crimes.

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[1] 27 UST 3949; TIAS 8413. For states which are parties in the Convention, see Department of State publication, *Treaties in Force*.

ARTICLE 2

For the purposes of this convention, kidnapping, murder, and other assaults against the life or personal integrity of those persons to whom the state has the duty to give special protection according to international law, as well as extortion in connection with those crimes, shall be considered common crimes of international significance, regardless of motive.

ARTICLE 3

Persons who have been charged or convicted for any of the crimes referred to in Article 2 of this convention shall be subject to extradition under the provisions of the extradition treaties in force between the parties or, in the case of states that do not make extradition dependent on the existence of a treaty, in accordance with their own laws.

In any case, it is the exclusive responsibility of the state under whose jurisdiction or protection such persons are located to determine the nature of the acts and decide whether the standards of this convention are applicable.

ARTICLE 4

Any person deprived of his freedom through the application of this convention shall enjoy the legal guarantees of due process.

ARTICLE 5

When extradition requested for one of the crimes specified in Article 2 is not in order because the person sought is a national of the requested state, or because of some other legal or constitutional impediment, that state is obliged to submit the case to its competent authorities for prosecution, as if the act had been committed in its territory. The decision of these authorities shall be communicated to the state that requested extradition. In such proceedings, the obligation established in Article 4 shall be respected.

ARTICLE 6

None of the provisions of this convention shall be interpreted so as to impair the right of asylum.

ARTICLE 7

The contracting states undertake to include the crimes referred to in Article 2 of this convention among the punishable acts giving rise to extradition in any treaty on the subject to which they agree among themselves in the future. The contracting states that do not subject extradition to the existence of a treaty with the requesting state shall consider the crimes referred to in Article 2 of this convention as crimes giving rise to extradition, according to the conditions established by the laws of the requested state.

ARTICLE 8

To cooperate in preventing and punishing the crimes contemplated in Article 2 of this convention, the contracting states accept the following obligations:

a. To take all measures within their power, and in conformity with their own laws, to prevent and impede the preparation in their respective territories of the crimes mentioned in Article 2 that are to be carried out in the territory of another contracting state.

b. To exchange information and consider effective administrative measures for the purpose of protecting the persons to whom Article 2 of this convention refers.

c. To guarantee to every person deprived of his freedom through the application of this convention every right to defend himself.

d. To endeavor to have the criminal acts contemplated in this convention included in their penal laws, if not already so included.

e. To comply most expeditiously with the requests for extradition concerning the criminal acts contemplated in this convention.

ARTICLE 9

This convention shall remain open for signature by the member states of the Organization of American States, as well as by any other state that is a member of the United Nations or any of its specialized agencies, or any state that is a party to the Statute of the International Court of Justice, or any other state that may be invited by the General Assembly of the Organization of American States to sign it.

ARTICLE 10

This convention shall be ratified by the signatory states in accordance with their respective constitutional procedures.

ARTICLE 11

The original instrument of this convention, the English, French, Portuguese, and Spanish texts of which are equally authentic, shall be deposited in the General Secretariat of the Organization of American States, which shall send certified copies of the signatory governments for purposes of ratification. The instruments of ratification shall be deposited in the General Secretariat of the Organization of American States, which shall notify the signatory governments of such deposit.

ARTICLE 12

This convention shall enter into force among the states that ratify it when they deposit their respective instruments of ratification.

ARTICLE 13

This convention shall remain in force indefinitely, but any of the contracting states may denounce it. The denunciation shall be transmitted to the General Secretariat of the Organization of American States, which shall notify the other contracting states thereof. One year following the denunciation, the convention shall cease to be in force for the denouncing state, but shall continue to be in force for the other contracting states.

STATEMENT OF PANAMA

The Delegation of Panama states for the record that nothing in this convention shall be interpreted to the effect that the right of asylum implies the right to request asylum from the United States authorities in the Panama Canal Zone, or that there is recognition of the right of the United States to grant asylum or political refuge in that part of the territory of the Republic of Panama that constitutes the Canal Zone.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, having presented their full powers, which have been found to be in due and proper form, sign this convention on behalf of their respective governments, at the city of Washington this second day of February of the year one thousand nine hundred seventy-one.

b. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents [1]

Adopted by the United Nations General Assembly December 14, 1973; Signed on behalf of the United States of America December 28, 1973; Ratification advised by the Senate of the United States of America October 28, 1975; Instrument of ratification deposited with the Secretary-General of the United Nations October 27, 1976; Entered into force February 20, 1977

The States Parties to this Convention,

Having in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and the promotion of friendly relations and co-operation among States,

Considering that crimes against diplomatic agents and other internationally protected persons jeopardizing the safety of these persons create a serious threat to the maintenance of normal international relations which are necessary for co-operation among States,

Believing that the commission of such crimes is a matter of grave concern to the international community,

Convinced that there is an urgent need to adopt appropriate and effective measures for the prevention and punishment of such crimes,

Have agreed as follows:

Article 1

For the purposes of this Convention:

1. "internationally protected person" means:

(a) a Head of State, including any member of a collegial body performing the functions of a Head of State under the constitution of the State concerned, a Head of Government or a Minister for Foreign Affairs, whenever any such person is in a foreign State, as well as members of his family who accompany him;

(b) any representative or official of a State or any official or other agent of an international organization of an intergovernmental character who, at the time when and in the place where a crime against him, his official premises, his private accommodation or his means of transport is committed, is entitled pursuant to international law to special protection from any attack on his person, freedom or dignity, as well as members of his family forming part of his household.

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[1] 28 UST 1975; TIAS 8532.

2. "alleged offender" means a person as to whom there is sufficient evidence to determine *prima facie* that he has committed or participated in one or more of the crimes set forth in article 2.

Article 2

1. The international commission of:

(a) a murder, kidnapping or other attack upon the person or liberty of an internationally protected person;

(b) a violent attack upon the official premises, the private accommodation or the means of transport of an internationally protected person likely to endanger his person or liberty;

(c) a threat to commit any such attack;

(d) an attempt to commit any such attack; and

(e) an act constituting participation as an accomplice in any such attack shall be made by each State Party a crime under its internal law.

2. Each State Party shall make these crimes punishable by appropriate penalties which take into account their grave nature.

3. Paragraphs 1 and 2 of this article in no way derogate from the obligations of States Parties under international law to take all appropriate measures to prevent other attacks on the person, freedom or dignity of an internationally protected person.

Article 3

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the crimes set forth in article 2 in the following cases:

(a) when the crime is committed in the territory of that State or on board a ship or aircraft registered in that State;

(b) when the alleged offender is a national of that State;

(c) when the crime is committed against an internationally protected person as defined in article 1 who enjoys his status as such by virtue of functions which he exercise on behalf of that State.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these crimes in cases where the alleged offender is present in its territory and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 4

States Parties shall co-operate in the prevention of the crimes set forth in article 2, particularly by:

(a) taking all practicable measures to prevent preparations in their respective territories for the commission of those crimes within or outside their territories;

(b) exchanging information and co-ordinating the taking of adminstrative and other measures as appropriate to prevent the commission of those crimes.

Article 5

1. The State Party in which any of the crimes set forth in article 2 has been committed shall, if it has reason to believe that an alleged offender has fled from its territory, communicate to all other States concerned, directly or through the Secretary-General of the United Nations, all the pertinent facts regarding the crime committed and all available information regarding the identity of the alleged offender.

Whenever any of the crimes set forth in article 2 has been committed against an internationally protected person, any State Party which has information concerning the victim and the circumstances of the crime shall endeavor to transmit it, under the conditions provided for in its internal law, fully and promptly to the State Party on whose behalf he was exercising his functions.

Article 6

1. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take the appropriate measures under its internal law so as to ensure his presence for the purpose of prosecution or extradition. Such measures shall be notified without delay directly or through the Secretary-General of the United Nations to:

(a) the State where the crime was committed;

(b) the State or States of which the alleged offender is a national or, if he is a stateless person, in whose territory he permanently resides;

(c) the State or States of which the internationally protected person concerned is a national or on whose behalf he was exercising his functions;

(d) all other States concerned; and

(e) the international organization of which the internationally protected person concerned is an official or an agent.

2. Any person regarding whom the measures referred to in paragraph 1 of this article are being taken shall be entitled:

(a) to communicate without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to protect his rights or, if he is a stateless person, which he requests and which is willing to protect his rights; and

(b) to be visited by a representative of that State.

Article 7

The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State.

Article 8

1. To the extent that the crimes set forth in article 2 are not listed as extraditable offences in any extradition treaty existing between States Parties, they shall be deemed to be included as such

therein. States Parties undertake to include those crimes as extraditable offenses in every future extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may, if it decides to extradite, consider this Convention as the legal basis for extradition in respect of those crimes. Extradition shall be subject to the procedural provisions and the other conditions of the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those crimes as extraditable offenses between themselves subject to the procedural provisions and the other conditions of the law of the requested State.

4. Each of the crimes shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with paragraph 1 of article 3.

Article 9

Any person regarding whom proceedings are being carried out in connexion with any of the crimes set forth in article 2 shall be guaranteed fair treatment at all stages of the proceedings.

Article 10

1. States Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of the crimes set forth in article 2, including the supply of all evidence at their disposal necessary for the proceedings.

2. The provisions of paragraph 1 of this article shall not affect obligations concerning mutual judicial assistance embodied in any other treaty.

Article 11

The State Party where an alleged offender is prosecuted shall communicate the final outcome of the proceedings of the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

Article 12

The provisions of this Convention shall not affect the application of the Treaties on Asylum, in force at the date of the adoption of this Convention, as between the States which are parties to those Treaties; but a State Party to this Convention may not invoke those Treaties with respect to another State Party to this Convention which is not a party to those Treaties.

Article 13

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of one of them, be sub-

mitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 14

This Convention shall be open for signature by all States, until 31 December 1974 at United Nations Headquarters in New York.

Article 15

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 16

This Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 17

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 18

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect six months following the date on which notification is received by the Secretary-General of the United Nations.

Article 19

The Secretary-General of the United Nations shall inform all States, *inter alia:*

(a) of signatures to this Convention, of the deposit of instruments of ratification or accession in accordance with articles 14, 15 and 16 and of notifications made under article 18.

(b) of the date on which this Convention will enter into force in accordance with article 17.

Article 20

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at New York on 14 December 1973.

6. Universal Declaration of Human Rights

Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the people of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-selfgoverning or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and the security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the Constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness

disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

7. Convention on the Prevention and Punishment of the Crime of Genocide

Adopted by the U.N. General Assembly at Paris, December 9, 1948; open for negotiation until December 31, 1949; entered into force January 12, 1951 [participating countries]; signed by the United States December 11, 1948; Senate advice and consent to ratification with reservations, declaration and understandings, February 19, 1986; Approved and proposed for signature and ratification on accession by General Assembly resolution 260 A (III) of 9 December 1948 [1]

ENTRY INTO FORCE: 12 January 1951, in accordance with article XIII.

> NOTE.—Article III of the Senate's Resolution of Ratification of the Convention provides that the President will not deposit the instrument of ratification until implementing legislation has been enacted.

The Contracting Parties,

Having considered the declaration made by the General Assembly of the United Nations in its resolution 96 (I) dated 11 December 1946 that genocide is a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world.

Recognizing that at all periods of history genocide has inflicted great losses on humanity, and

Being convinced that, in order to liberate mankind from such an odious scourge, international co-operation is required,

Hereby agree as hereinafter provide:

Article I

The Contracting Parties confirm that genocide, whether committed in time of peace or time of war, is a crime under international law which they undertake to prevent and to punish.

Article II

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

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[1] United States signed Dec. 11, 1948; pending in Senate Foreign Relations Committee since June 16, 1949.

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group.

Article III

The following acts shall be punishable:

(a) Genocide;

(b) Conspiracy to commit genocide;

(c) Direct and public incitement to commit genocide;

(d) Attempt to commit genocide;

(e) Complicity in genocide.

Article IV

Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

Article V

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or any of the other acts enumerated in article III.

Article VI

Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to these Contracting Parties which shall have accepted its jurisdiction.

Article VII

Genocide and the other acts enumerated in article III shall not be considered as political crimes for the purpose of extradition.

The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

Article VIII

Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.

Article IX

Disputes between the Contracting Parties relating to the interpretation, application or fulfillment of the present Convention, including those relating to the responsiblility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

Article X

The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall bear the date of 9 December 1948.

Article XI

The present Convention shall be open until 31 December 1949 for signature on behalf of any Member of the United Nations and of any non-member State to which an invitation to sign has been addressed by the General Assembly.

The present Convention shall be ratified, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

After 1 January 1950, the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State which has received an invitation as aforesaid.

Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article XII

Any Contracting Party may at any time, by notification addressed to the Secretary-General of the United Nations, extend the application of the present Convention to all or any of the territories for the conduct of whose foreign relations that Contracting Party is responsible.

Article XIII

On the day when the first twenty instruments of ratification or accession have been deposited, the Secretary-General shall draw up a *procès-verbal* and to each of the non-member States contemplated in article XI.

The present Convention shall come into force on the ninetieth day following the date of deposit of the twentieth instrument of ratification or accession.

Any ratification or accession effected subsequent to the latter date shall become effective on the ninetieth day following the deposit of the instrument of ratification or accession.

Article XIV

The present Convention shall remain in effect for a period of ten years as from the date of its coming into force.

It shall thereafter remain in force for successive periods of five years for such Contracting Parties as have not denounced it at least six months before the expiration of the current period.

Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations.

Article XV

If, as a result of denunciations, the number of Parties to the present Convention should become less than sixteen, the Convention shall cease to be in force as from the date on which the last of these denunciations shall become effective.

Article XVI

A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General.

The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

Article XVII

The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States contemplated in article XI of the following:

(a) Signatures, ratifications and accessions received in accordance with article XI;

(b) Notifications received in accordance with article XII;

(c) The date upon which the present Convention comes into force in accordance with article XIII;

(d) Denunciations received in accordance with article XIV;

(e) The abrogation of the Convention in accordance with article XV;

(f) Notifications received in accordance with article XVI.

Article XVIII

The original of the present Convention shall be deposited in the archives of the United Nations.

A certified copy of the Convention shall be transmitted to each Member of the United Nations and to each of the non-member States contemplated in article XI.

Article XIX

The present Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force.

a. Senate Resolution of Ratification of Genocide Convention Including Reservations, Understandings and Declaration

Agreed to by the Senate on February 19, 1986

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratifaction of the International Convention on the Prevention and Punishment of the Crime of Genocide, adopted unanimously by the General Assembly of the United Nations in Paris on December 9, 1948 (Executive O, Eighty-first Congress, first session), *Provided that:*

I. The Senate's advice and consent is subject to the following reservations:

(1) That with reference to Article IX of the Convention, before any dispute to which the United States is a party may be submitted to the jurisdiction of the International Court of Justice under this article, the specific consent of the United States is required in each case.

(2) That nothing in the Convention requires or authorizes legislation or other action by the United States of America prohibited by the Constitution of the United States as interpreted by the United States.

II. The Senate's advice and consent is subject to the following understandings, which shall apply to the obligations of the United States under the Convention:

(1) That the term "intent to destroy, in whole or in part, a national, ethnical, racial, or religious group as such" appearing in Article II means the specific intent to destroy, in whole or in substantial part, a national, ethnical, racial, or religious group as such by the acts specified in Article II.

(2) That the term "mental harm" in Article II(b) means permanent impairment of mental faculties through drugs, torture or similar techniques.

(3) That the pledge to grant extradition in accordance with a state's laws and treaties in force found in Article VII extends only to acts which are criminal under the laws of both the requesting and the requested state and nothing in Article VI affects the right of any state to bring to trial before its own tribunals any of its nationals for acts committed outside a state.

(4) That acts in the course of armed conflicts committed without the specific intent required by Article II are not sufficient to constitute genocide as defined by this Convention.

(5) That with regard to the reference to an international penal tribunal in Article VI of the Convention, the United States declares that it reserves the right to effect its participation in any such tribunal only by a treaty entered into specifically for that purpose with the advice and consent of the Senate.

III. The Senate's advice and consent is subject to the following declaration:

That the President will not deposit the instrument of ratification until after the implementing legislation referred to in Article V has been enacted.

b. S.J. Res. 347 Regarding Further Amendment of the Genocide Convention

Adopted February 19, 1986

Resolved, That it is the sense of the Senate that—

(1) upon depositing the instrument of ratification to the International Convention on Prevention and Punishment of the Crime of Genocide with the Secretary General of the United Nations, the President should notify in writing the Secretary General of the desire of the United States to amend the Convention to include acts constituting political genocide within the definition of the term "genocide"; and

(2) the President should instruct the Permanent Representatives of the United States to the United Nations to take all steps necessary to see that such an amendment is adopted.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

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K. WAR POWERS, COLLECTIVE SECURITY TREATIES, AND RELATED MATERIAL

CONTENTS

Page

1. Presidential Proclamation 2914 (Proclaiming the Existence of a National Emergency) 795
2. Latin America 797
    - a. Inter-American Treaty of Reciprocal Assistance 797
    - b. Organization of American States 804
        - (1) Charter of the Organization of American States as amended by the Protocol of Amendment (with reservations) 804
        - (2) Protocol of Amendment to the Charter of the Organization of American States (Protocol of Buenos Aires) 833
    - c. Act of Bogotá 836
    - d. The Charter of Punta del Este, Establishing an Alliance for Progress Within the Framework of Operation Pan America 842
3. North Atlantic Treaty 856
    - a. North Atlantic Treaty (amended) 856
    - b. Protocol to the North Atlantic Treaty on the Accession of Spain 860
4. Mutual Defense Treaty Between the United States of America and the Republic of the Philippines 861
5. Security Treaty Between Australia, New Zealand, and the United States of America 863
6. Mutual Defense Treaty Between the United States of America and the Republic of Korea (with understanding) 866
7. Southeast Asia Collective Defense Treaty and Protocol Thereto (with understanding) 868
8. Treaty of Mutual Cooperation and Security Between the United States of America and Japan 872
9. Middle East Resolutions and Related Material 879
    - a. Security Council Resolution 242 (1967) 879
    - b. Security Council Resolution 338 (1973) 880
    - c. United States Proposal for the Early Warning System in Sinai 881
10. Panama Canal Treaties and Related Material 883
    - a. Panama Canal Treaties 883
        - (1) Panama Canal Treaty 883
        - (2) Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal 901
    - b. Documents Associated with the Panama Canal Treaties 908
    - c. Resolutions of Ratification 997
        - (1) Ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal 997
        - (2) Ratification of the Panama Canal Treaty 1000

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1. Presidential Proclamation 2914, December 16, 1950, 15 F.R. 9029[1]

PROCLAIMING THE EXISTENCE OF A NATIONAL EMERGENCY

Whereas recent events in Korea and elsewhere constitute a grave threat to the peace of the world and imperil the efforts of this country and those of the United Nations to prevent aggression and armed conflict; and

Whereas world conquest by Communist imperialism is the goal of the forces of aggression that have been loosed upon the world; and

Whereas, if the goal of Communist imperialism were to be achieved, the people of this country would no longer enjoy the full and rich life they have with God's help built for themselves and their children; they would no longer enjoy the blessings of the freedom of worshipping as they severally choose, the freedom of reading and listening to what they choose, the right of free speech including the right to criticize their Government, the right to choose those who conduct their Government, the right to engage freely in collective bargaining, the right to engage freely in their own business enterprises, and the many other freedoms and rights which are a part of our way of life; and

Whereas the increasing menace of the forces of Communist aggression requires that the national defense of the United States be strengthened as speedily as possible:

Now, therefore, I, Harry S. Truman, President of the United States of America, do proclaim the existence of a national emergency, which requires that the military, naval, air, and civilian defenses of this country be strengthened as speedily as possible to the end that we may be able to repel any and all threats against our national security and to fulfill our responsibilities in the efforts being made through the United Nations and otherwise to bring about lasting peace.

I summon all citizens to make a united effort for the security and well-being of our beloved country and to place its needs foremost in thought and action that the full moral and material strength of the Nation may be readied for the dangers which threaten us.

I summon our farmers, our workers in industry, and our businessmen to make a mighty production effort to meet the defense requirements of the Nation and to this end to eliminate all waste and inefficiency and to subordinate all lesser interests to the common good.

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[1] See section E, volume I, for additional information under emergency provision (Sec. 215) of the Immigration and Nationality Act of 1952, as amended, relating to "Travel Control of Citizens and Aliens During War or National Emergency."

I summon every person and every community to make, with a spirit of neighborliness, whatever sacrifices are necessary for the welfare of the Nation.

I summon all State and local leaders and officials to cooperate fully with the military and civilian defense agencies of the United States in the national defense program.

I summon all citizens to be loyal to the principles upon which our Nation is founded, to keep faith with our friends and allies, and to be firm in our devotion to the peaceful purposes for which the United Nations was founded.

I am confident that we will meet the dangers that confront us with courage and determination, strong in the faith that we can thereby "secure the Blessings of Liberty to ourselves and our Posterity."

In witness whereof, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

Done at the City of Washington this 16th day of December (10:20 a.m.) in the year of our Lord nineteen hundred and fifty, and of the Independence of the United States of America the one hundred and seventy-fifth.

2. Latin America

a. Inter-American Treaty of Reciprocal Assistance [1]

Opened for signature at Rio de Janeiro September 2, 1947; ratification advised by the Senate of the United States of America December 8, 1947; ratified by the President of the United States of America December 12, 1947; ratification of the United States of America deposited with the Pan American Union December 30, 1947; proclaimed by the President of the United States of America December 9, 1948; entered into force December 3, 1948

In the name of their Peoples, the Governments represented at the Inter-American Conference for the Maintenance of Continental Peace and Security, desirous of consolidating and strengthening their relations of friendship and good neighborliness, and

Considering:

That Resolution VIII of the Inter-American Conference on Problems of War and Peace, which met in Mexico City, recommended the conclusion of a treaty to prevent and repel threats and acts of aggression against any of the countries of America;

That the High Contracting Parties [1] reiterate their will to remain united in an inter-American system consistent with the purposes and principles of the United Nations, and reaffirm the existence of the agreement which they have concluded concerning those matters relating to the maintenance of international peace and security which are appropriate for regional action;

That the High Contracting Parties reaffirm their adherence to the principles of inter-American solidarity and cooperation, and especially to those set forth in the preamble and declarations of the Act of Chapultepec, all of which should be understood to be accepted as standards of their mutual relations and as the juridical basis of the Inter-American System;

That the American States propose, in order to improve the procedures for the pacific settlement of their controversies, to conclude the treaty concerning the "Inter-American Peace System" envisaged in Resolutions IX and XXXIX of the Inter-American Conference on Problems of War and Peace.

That the obligation of mutual assistance and common defense of the American Republics is essentially related to their democratic ideals and to their will to cooperate permanently in the fulfillment of the principles and purposes of a policy of peace;

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[1] 62 Stat. 1681: TIAS 1838; 4 Bevans 559; 21 UNTS 77. For a list of states which are parties to the Treaty, see Department of State publication, *Treaties in Force*.

A Protocol of amendment to this treaty was signed at San Jose, Costa Rica, on July 26, 1975 and ratification was advised by the United States Senate on July 19, 1977. The President signed the Protocol on April 17, 1978 and the United States deposited the instrument of ratification on September 29, 1979. However, at the publication date of this volume, the necessary two-thirds of the member states had not ratified the Protocol and therefore, it had not entered into force. Should the Protocol enter into force the entire text of this treaty, as amended, will be printed in volume II of subsequent editions.

That the American regional community affirms as a manifest trust that juridical organization is a necessary prerequisite of security and peace, and that peace is founded on justice and moral order and, consequently, on the international recognition and protection of human rights and freedoms, on the indispensable well-being of the people, and on the effectiveness of democracy for the international realization of justice and security;

Have resolved, in conformity with the objectives stated above, to conclude the following Treaty, in order to assure peace, through adequate means, to provide for effective reciprocal assistance to meet armed attacks against any American State, and in order to deal with threats of aggression against any of them:

ARTICLE 1

The High Contracting Parties formally condemn war and undertake in their international relations not to resort to the threat or the use of force in any manner inconsistent with the provisions of the Charter of the United Nations or of this Treaty.

ARTICLE 2

As a consequence of the principle set forth in the preceding Article, the High Contracting Parties undertake to submit every controversy which may arise between them to methods of peaceful settlement and to endeavor to settle any such controversy among themselves by means of the procedures in force in the Inter-American System before referring it to the General Assembly or the Security Council of the United Nations.

ARTICLE 3

1. The High Contracting Parties agree that an armed attack by any State against an American State shall be considered as an attack against all the American States and, consequently, each one of the said Contracting Parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations.

2. On the request of the State or States directly attacked and until the decision of the Organ of Consultation of the Inter-American System, each one of the Contracting Parties may determine the immediate measures which it may individually take in fulfillment of the obligation contained in the preceding paragraph and in accordance with the principle of continental solidarity. The Organ of Consultation shall meet without delay for the purpose of examining those measures and agreeing upon the measures of a collective character that should be taken.

3. The provisions of this Article shall be applied in case of any armed attack which takes place within the region described in Article 4 or within the territory of an American State. When the attack takes place outside of the said areas, the provisions of Article 6 shall be applied.

4. Measures of self-defense provided for under this Article may be taken until the Security Council of the United Nations has taken the measures necessary to maintain international peace and security.

ARTICLE 4

The region to which this Treaty refers is bounded as follows: beginning at the North Pole; thence due south to a point 74 degrees north latitude, 10 degrees west longitude; thence by a rhumb line to a point 47 degrees 30 minutes north latitude, 50 degrees west longitude; thence by a rhumb line to a point 35 degrees north latitude, 60 degrees west longitude; thence due south to a point 20 degrees north latitude; thence by a rhumb line to a point 5 degrees north latitude, 24 degrees west longitude; thence due south to the South Pole; thence due north to a point 30 degrees south latitude, 90 degrees west longitude; thence by a rhumb line to a point on the Equator at 97 degrees west longitude; thence by a rhumb line to a point 15 degrees north latitude, 120 degrees west longitude; thence by a rhumb line to a point 50 degrees north latitude, 170 degrees east longitude; thence due north to a point in 54 degrees north latitude; thence by a rhumb line to a point 65 degrees 30 minutes north latitude, 168 degrees 58 minutes 5 seconds west longitude; thence due north to the North Pole.

ARTICLE 5

The High Contracting Parties shall immediately send to the Security Council of the United Nations, in conformity with Articles 51[2] and 54[3] of the Charter of the United Nations, complete information concerning the activities undertaken or in contemplation in the exercise of the right of self-defense or for the purpose of maintaining inter-American peace and security.

ARTICLE 6

If the inviolability or the integrity of the territory or the sovereignty or political independence of any American State should be affected by an aggression which is not an armed attack or by an extracontinental or intra-continental conflict, or by any other fact or situation that might endanger the peace of America, the Organ of Consultation shall meet immediately in order to agree on the measures which must be taken in case of aggression to assist the victim of the aggression or, in any case, the measures which should be taken for the common defense and for the maintenance of the peace and security of the Continent.

ARTICLE 7

In the case of a conflict between two or more American States, without prejudice to the right of self-defense in conformity with Article 51 of the Charter of the United Nations, the High Contracting Parties, meeting in consultation shall call upon the contending

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[2] See page 718 of text.
[3] See page 719 of text.

States to suspend hostilities and restore matters to the *status quo ante bellum,* and shall take in addition all other necessary measures to reestablish or maintain inter-American peace and security and for the solution of the conflict by peaceful means. The rejection of the pacifying action will be considered in the determination of the aggressor and in the application of the measures which the consultative meetings may agree upon.

ARTICLE 8

For the purposes of this Treaty, the measures on which the Organ of Consultation may agree will comprise one or more of the following: recall of chiefs of diplomatic missions; breaking of diplomatic relation; breaking of consular relations; partial or complete interruption of economic relations or of rail, sea, air, postal, telegraphic, telephonic, and radiotelephonic or radio telegraphic communications; and use of armed force.

ARTICLE 9

In addition to other acts which the Organ of Consultation may characterize an aggression, the following shall be considered as such:

a. Unprovoked armed attack by a State against the territory, the people, or the land, sea or air forces of another State;

b. Invasion, by the armed forces of a State, of the territory of an American State, through the trespassing of boundaries demarcated in accordance with a treaty, judicial decision, or arbitral award, or, in the absence of frontiers thus demarcated, invasion affecting a region which is under the effective jurisdiction of another State.

ARTICLE 10

None of the provisions of this Treaty shall be construed as impairing the rights and obligations of the High Contracting Parties under the Charter of the United Nations.

ARTICLE 11

The consultations to which this Treaty refers shall be carried out by means of the Meetings of Ministers of Foreign Affairs of the American Republics which have ratified the Treaty, or in the manner or by the organ which in the future may be agreed upon.

ARTICLE 12

The Governing Board of the Pan American Union may act provisionally as an organ of consultation until the meeting of the Organ of Consultation referred to in the preceding Article takes place.

ARTICLE 13

The consultations shall be initiated at the request addressed to the Governing Board of the Pan American Union by any of the Signatory States which has ratified the Treaty.

ARTICLE 14

In the voting referred to in this Treaty only the representatives of the Signatory States which have ratified the Treaty may take part.

ARTICLE 15

The Governing Board of the Pan American Union shall act in all matters concerning this Treaty as an organ of liaison among the Signatory States which have ratified this Treaty and between these States and the United Nations.

ARTICLE 16

The decisions of the Governing Board of the Pan American Union referred to in Articles 13 and 15 above shall be taken by an absolute majority of the Members entitled to vote.

ARTICLE 17

The Organ of Consultation shall take its decisions by a vote of two-thirds of the Signatory States which have ratified the Treaty.

ARTICLE 18

In the case of a situation or dispute between American States, the parties directly interested shall be excluded from the voting referred to in two preceding Articles.

ARTICLE 19

To constitute a quorum in all the meetings referred to in the previous Articles, it shall be necessary that the number of States represented shall be at least equal to the number of votes necessary for the taking of the decision.

ARTICLE 20

Decisions which require the application of the measures specified in Article 8 shall be binding upon all the Signatory States which have ratified this Treaty, with the sole exception that no State shall be required to use armed force without its consent.

ARTICLE 21

The measures agreed upon by the Organ of Consultation shall be executed through the procedures and agencies now existing or those which may in the future be established.

ARTICLE 22

This Treaty shall come into effect between the States which ratify it as soon as the ratification of two-thirds of the Signatory States have been deposited.

ARTICLE 23

This Treaty is open for signature by the American States at the city of Rio de Janeiro, and shall be ratified by the Signatory States as soon as possible in accordance with their respective constitutional processes. The ratifications shall be deposited with the Pan American Union, which shall notify the Signatory States of each deposit. Such notification shall be considered as an exchange of ratifications.

ARTICLE 24

The present Treaty shall be registered with the Secretariat of the United Nations through the Pan American Union, when two-thirds of the Signatory States have deposited their ratifications.

ARTICLE 25

This Treaty shall remain in force indefinitely, but may be denounced by any High Contracting Party by a notification in writing to the Pan American Union, which shall reform all the other High Contracting Parties of each notification of denunciation received. After the expiration of two years from the date of the receipt by the Pan American Union of a notification of denunciation by any High Contracting Party, the present Treaty shall cease to be in force and with respect to such State, but shall remain in full force and effect with respect to all the other High Contracting Parties.

ARTICLE 26

The principles and fundamental provisions of this Treaty shall be incorporated in the Organic Pact of the Inter-American System.

In witness thereof, the undersigned Plenipotentiaries, having deposited their full powers found to be in due and proper form, sign this Treaty on behalf of their respective Governments, on the dates appearing opposite their signatures.

Done in the city of Rio de Janeiro, in four texts respectively in the English, French, Portuguese and Spanish languages, on the second of September nineteen hundred forty-seven.

BEST COPY AVAILABLE

RESERVATION OF HONDURAS

The Delegation of Honduras, in signing the present Treaty and in connection with Article 9, section (b), does so with the reservation that the boundary between Honduras and Nicaragua is definitely demarcated by the Joint Boundary Commission of nineteen hundred and nineteen hundred and one, starting from a point in the Gulf of Fonseca, in the Pacific Ocean, to Portillo de Teotecacinte and, from this point to the Atlantic, by the line that His Majesty the King of Spain's arbitral award established on the twenty third of December of nineteen hundred and six.

b. Organization of American States

(1) Charter of the Organization of American States [1] as amended by the Protocol of Amendment [2] (with reservations) [3]

Charter signed at Bogotá April 30, 1948; ratification advised by the Senate of the United States of America, with a reservation, August 28, 1950; ratified by the President of the United States of America, subject to said reservation, June 15, 1951; ratification of the United States of America deposited with the Pan American Union, June 19, 1951; proclaimed by the President of the United States of America, December 27, 1951; entered into force December 13, 1951

In the name of their Peoples, the States represented at the Ninth International Conference of American States,

Convinced that the historic mission of America is to offer to man a land of liberty, and a favorable environment for the development of his personality and the realization of his just aspirations;

Conscious that that mission has already inspired numerous agreements, whose essential value lies in the desire of the American peoples to live together in peace, and, through their mutual understanding and respect for the sovereignty of each one, to provide for the betterment of all, in independence, in equality and under law;

Confident that the true significance of American solidarity and good neighborliness can only mean the consolidation on this continent, within the framework of democratic institutions, of a system of individual liberty and social justice based on respect for the essential rights of man;

Persuaded that their welfare and their contribution to the progress and the civilization of the world will increasingly require intensive continental cooperation;

Resolved to persevere in the noble undertaking that humanity has conferred upon the United Nations, whose principles and purposes they solemnly reaffirm;

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[1] 2 UST 2394; TIAS 2361; 119 UNTS 3.

[2] Signed at the Third Special Inter-American Conference, Buenos Aires, Argentina, February 27, 1967, and entered into force on February 27, 1970 [TIAS 6847, 21 UST 607]. See page 833. The Protocol of Amendment re-arranged the original Charter of the Organization of American States. A new Chapter III was created including the old Articles 2 and 3 and several new articles. All subsequent chapters were re-numbered to compensate for the additional chapter. The old Chapter V then became Chapter VI in an amended and restated version. Chapter XII was an amended and restated version of old Chapter VI, Chapters VII and VIII were expanded texts over the original Charter.

The new Chapter X at the beginning of Part Two incorporated new organizations of recent years. The new Chapter XI on the "General Assembly" replaced the old one on the "Inter-American Conference". Chapter XII was a re-numbered version of the old Chapter XI. The former Chapter XII entitled "The Council" was subdivided into Chapters XIII through XVIII with extensive expanding over the original chapter. The new Chapter XIX replaced the Chapter XIII entitled the "Pan American Union" outlining in detail the office of the "General Secretariat". Chapter XX was identical to the original Chapter XIV. Chapter XXI was partially borrowed from the old Chapter XV on "Specialized Organizations" and in part the result of newly introduced provisions. The original Chapter XVII was re-numbered as Chapter XXIV in the amended Charter. A new Chapter XXV on "Transitory Provisions" was added to the end of the text.

[3] For text of reservation, see page 832.

Convinced that juridical organization is a necessary condition for security and peace founded on moral order and on justice; and

In accordance with Resolution IX of the Inter-American Conference on Problems of War and Peace, held at Mexico City, have agreed upon the following:

PART ONE

CHAPTER I. NATURE AND PURPOSES

ARTICLE 1

The American States establish by this Charter the international organization that they have developed to achieve an order of peace and justice, to promote their solidarity, to strengthen their collaboration, and to defend their sovereignty, their territorial integrity and their independence. Within the United Nations, the Organization of American States is a regional agency.

ARTICLE 2

The Organization of American States, in order to put into practice the principles on which it is founded and to fulfill its regional obligations under the Charter of the United Nations, proclaims the following essential purposes:

(a) To strengthen the peace and security of the continent;

(b) To prevent possible causes of difficulties and to ensure the pacific settlement of disputes that may arise among the Member States;

(c) To provide for common action on the part of those States in the event of aggression;

(d) To seek the solution of political, juridical and economic problems that may arise among them; and

(e) To promote, by cooperative action, their economic, social and cultural development.

CHAPTER II. PRINCIPLES

ARTICLE 3

The American States reaffirm the following principles:

(a) International law is the standard of conduct of States in their reciprocal relations;

(b) International order consists essentially of respect for the personality, sovereignty and independence of States, and the faithful fulfillment of obligations derived from treaties and other sources of international law;

(c) Good faith shall govern the relations between States;

(d) The solidarity of the American States and the high aims which are sought through it require the political organization of those States on the basis of the effective exercise of representative democracy;

(e) The American States condemn war of aggression: victory does not give rights;

(f) An act of aggression against one American State is an act of aggression against all the other American States;

(g) Controversies of an international character arising between two or more American States shall be settled by peaceful procedures;

(h) Social justice and social security are bases of lasting peace;

(i) Economic cooperation is essential to the common welfare and prosperity of the peoples of the hemisphere;

(j) The American States proclaim the fundamental rights of the individual without distinction as to race, nationality, creed or sex;

(k) The spiritual unity of the hemisphere is based on respect for the cultural values of the American countries and requires their close cooperation for the high purposes of civilization;

(l) The education of peoples should be directed toward justice, freedom and peace.

CHAPTER III. MEMBERS

ARTICLE 4

All American States that ratify the present Charter are Members of the Organization.

ARTICLE 5

Any new political entity that arises from the union of several Member States and that, as such, ratifies the present Charter, shall become a Member of the Organization. The entry of the new political entity into the Organization shall result in the loss of membership of each one of the States which constitute it.

ARTICLE 6

Any other independent American State that desires to become a Member of the Organization should so indicate by means of a note addressed to the Secretary General, in which it declares that it is willing to sign and ratify the Charter of the Organization and to accept all the obligations inherent in membership, especially those relating to collective security expressly set forth in Articles 27 and 28 of the Charter.

ARTICLE 7

The General Assembly, upon the recommendation of the Permanent Council of the Organization, shall determine whether it is appropriate that the Secretary General be authorized to permit the applicant State to sign the Charter and to accept the deposit of the corresponding instrument of ratification. Both the recommendation of the permanent Council and the decision of the General Assembly shall require the affirmative vote of two thirds of the Member States.

ARTICLE 8

The Permanent Council shall not make any recommendations nor shall the General Assembly take any decision with respect to a request for admission on the part of a political entity whose territory became subject, in whole or in part, prior to December 18, 1964, the date set by the First Special Inter-American Conference, to litigation or claim between an extracontinental country and one or more Member States of the Organization, until the dispute has been ended by some peaceful procedure.

CHAPTER IV. FUNDAMENTAL RIGHTS AND DUTIES OF STATES

ARTICLE 9

States are juridically equal, enjoy equal rights and equal capacity to exercise these rights, and have equal duties. The rights of each State depend not upon its power to ensure the exercise thereof, but upon the mere fact of its existence as a person under international law.

ARTICLE 10

Every American State has the duty to respect the rights enjoyed by every other State in accordance with international law.

ARTICLE 11

The fundamental rights of States may not be impaired in any manner whatsoever.

ARTICLE 12

The political existence of the State is independent of recognition by other States. Even before being recognized, the State has the right to defend its integrity and independence, to provide for its preservation and prosperity, and consequently to organize itself as it sees fit, to legislate concerning its interests, to administer its services, and to determine the jurisdiction and competence of its courts. The exercise of these rights is limited only by the exercise of the rights of other States in accordance with international law.

ARTICLE 13

Recognition implies that the State granting it accepts the personality of the new State, with all the rights and duties that international law prescribes for the two States.

ARTICLE 14

The right of each State to protect itself and to live its own life does not authorize it to commit unjust acts against another State.

ARTICLE 15

The jurisdiction of States within the limits of their national territory is exercised equally over all the inhabitants, whether nationals or aliens.

ARTICLE 16

Each State has the right to develop its cultural, political, and economic life freely and naturally. In this free development, the State shall respect the rights of the individual and the principles of universal morality.

ARTICLE 17

Respect for and the faithful observance of treaties constitute standards for the development of peaceful relations among States. International treaties and agreements should be public.

ARTICLE 18

No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State or against its political, economic, and cultural elements.

ARTICLE 19

No State may use or encourage the use of coercive measures of an economic or political character in order to force the sovereign will of another State and obtain from it advantages of any kind.

ARTICLE 20

The territory of a State is inviolable; it may not be the object, even temporarily, of military occupation or of other measures of force taken by another State, directly or indirectly, on any grounds whatever. No territorial acquisitions or special advantages obtained either by force or by other means of coercion shall be recognized.

ARTICLE 21

The American States bind themselves in their international relations not to have recourse to the use of force, except in the case of self-defense in accordance with existing treaties or in fulfillment thereof.

ARTICLE 22

Measures adopted for the maintenance of peace and security in accordance with existing treaties do not constitute a violation of the principles as set forth in Articles 18 and 20.

CHAPTER V. PACIFIC SETTLEMENT OF DISPUTES

ARTICLE 23

All international disputes that may arise between American States shall be submitted to the peaceful procedures set forth in this Charter, before being referred to the Security Council of the United Nations.

ARTICLE 24

The following are peaceful procedures: direct negotiation, good offices, mediation, investigation and conciliation, judicial settlement, arbitration, and those which the parties to the dispute may especially agree upon at any time.

ARTICLE 25

In the event that a dispute arises between two or more American States which, in the opinion of one of them, cannot be settled through the usual diplomatic channels, the Parties shall agree on some other peaceful procedure that will enable them to reach a solution.

ARTICLE 26

A special treaty will establish adequate procedures for the pacific settlement of disputes and will determine the appropriate means for their application, so that no dispute between American States shall fail of definitive settlement within a reasonable period.

CHAPTER VI. COLLECTIVE SECURITY

ARTICLE 27

Every act of aggression by a State against the territorial integrity or the inviolability of the territory or against the sovereignty or political independence of an American State shall be considered an act of aggression against the other American States.

ARTICLE 28

If the inviolability or the integrity of the territory or the sovereignty or political independence of any American State should be affected by an armed attack or by an act of aggression that is not an armed attack, or by an extra-hemispheric conflict, or by a conflict between two or more American States, or by any other fact or situation that might endanger the peace of America, the American States, in furtherance of the principles of hemispheric solidarity or collective self-defense, shall apply the measures and procedures established in the special treaties on the subject.

CHAPTER VII. ECONOMIC STANDARDS

ARTICLE 29

The Member States, inspired by the principles of inter-American solidarity and cooperation, pledge themselves to a united effort to ensure social justice in the Hemisphere and dynamic and balanced economic development for their peoples, as conditions essential to peace and security.

ARTICLE 30

The Member States pledge themselves to mobilize their own national human and material resources through suitable programs, and recognize the importance of operating within an efficient domestic structure, as fundamental conditions for their economic and social progress and for assuring effective inter-American cooperation.

ARTICLE 31

To accelerate their economic and social development, in accordance with their own methods and procedures and within the framework of the democratic principles and the institutions of the inter-American system, the Member States agree to dedicate every effort to achieve the following basic goals:

(a) Substantial and self-sustained increase in the per capita national product;

(b) Equitable distribution of national income;

(c) Adequate and equitable systems of taxation;

(d) Modernization of rural life and reforms leading to equitable and efficient land-tenure systems, increased agricultural productivity, expanded use of undeveloped land, diversification of production, and improved processing and marketing systems for agricultural products; and the strengthening and expansion of facilities to attain these ends;

(e) Accelerated and diversified industrialization, especially of capital and intermediate goods;

(f) Stability in the domestic price levels, compatible with sustained economic development and the attainment of social justice;

(g) Fair wages, employment opportunities, and acceptable working conditions for all;

(h) Rapid eradication of illiteracy and expansion of educational opportunities for all;

(i) Protection of man's potential through the extension and application of modern medical science;

(j) Proper nutrition, especially through the acceleration of national efforts to increase the production and availability of food;

(k) Adequate housing for all sectors of the population;

(l) Urban conditions that offer the opportunity for a healthful, productive, and full life;

(m) Promotion of private initiative and investment in harmony with action in the public sector; and

(n) Expansion and diversification of exports.

ARTICLE 32

In order to attain the objectives set forth in this Chapter, the Member States agree to cooperate with one another, in the broadest spirit of inter-American solidarity, as far as their resources may permit and their laws may provide.

ARTICLE 33

To attain balanced and sustained development as soon as feasible, the Member States agree that the resources made available from time to time by each, in accordance with the preceding Article, should be provided under flexible conditions and in support of the national and multinational programs and efforts undertaken to meet the needs of the assisted country, giving special attention to the relatively less-developed countries.

They will seek, under similar conditions and for similar purposes, financial and technical cooperation from sources outside the Hemisphere and from international institutions.

ARTICLE 34

The Member States should make every effort to avoid policies, actions, or measures that have serious adverse effects on the economic or social development of another Member State.

ARTICLE 35

The Member States agree to join together in seeking a solution to urgent or critical problems that may arise whenever the economic development or stability of any Member State is seriously affected by conditions that cannot be remedied through the efforts of that State.

ARTICLE 36

The Member States shall extend among themselves the benefits of science and technology by encouraging the exchange and utilization of scientific and technical knowledge in accordance with existing treaties and national laws.

ARTICLE 37

The Member States, recognizing the close interdependence between foreign trade and economic and social development, should make individual and united efforts to bring about the following:

(a) Reduction or elimination, by importing countries, of tariff and nontariff barriers that affect the exports of the Members of the Organization, except when such barriers are applied in order to diversify the economic structure, to speed up the development of the less-developed Member States or to intensify their process of economic integration, or when they are related to national security or to the needs for economic balance;

(b) Maintenance of continuity in their economic and social development by means of:

i. Improved conditions for trade in basic commodities through international agreements, where appropriate; orderly marketing procedures that avoid the disruption of markets; and other measures designed to promote the expansion of markets, and to obtain dependable incomes for producers, adequate and dependable supplies for consumers, and stable prices that are both remunerative to producers and fair to consumers;

ii. Improved international financial cooperation and the adoption of other means for lessening the adverse impact of sharp fluctuations in export earnings experienced by the countries exporting basic commodities; and

iii. Diversification of exports and expansion of export opportunities for manufactured and semimanufactured products from the developing countries by promoting and strengthening national and multinational institutions and arrangements established for these purposes.

ARTICLE 38

The Member States reaffirm the principle that when the more-developed countries grant concessions in international trade agreements that lower or eliminate tariffs or other tariff barriers to foreign trade so that they benefit the less-developed countries, they should not expect reciprocal concessions from those countries that are incompatible with their economic development, financial, and trade needs.

ARTICLE 39

The Member States, in order to accelerate their economic development, regional integration, and the expansion and improvement of the conditions of their commerce, shall promote improvement and coordination of transportation and communication in the developing countries and among the Member States.

ARTICLE 40

The Member States recognize that integration of the developing countries of the Hemisphere is one of the objectives of the inter-American system and, therefore, shall orient their effort and take the necessary measures to accelerate the integration process, with a view to establishing a Latin American common market in the shortest possible time.

ARTICLE 41

In order to strengthen and accelerate integration in all its aspects, the Member States agree to give adequacy priority to the preparation and carrying out of multinational projects and to their financing, as well as to encourage economic and financial institutions of the inter-American system to continue giving their broadest support to regional integration institutions and programs.

ARTICLE 42

The Member States agree that technical and financial cooperation that seeks to promote regional economic integration should be based on the principle of harmonious, balanced, and efficient development, with particular attention to the relatively less-developed countries, so that it may be a decisive factor that will enable them to promote, with their own efforts, the improved development of their infrastructure programs, new lines of production, and export diversification.

CHAPTER VIII. SOCIAL STANDARDS

ARTICLE 43

The Member States, convinced that man can only achieve the full realization of his aspirations within a just social order, along with economic development and true peace, agree to dedicate every effort to the application of the following principles and mechanisms:

(a) All human beings, without distinction as to race, sex, nationality, creed, or social condition, have a right to material well-being and to their spiritual development, under circumstances of liberty, dignity, equality of opportunity, and economic security;

(b) Work is a right and a social duty, it gives dignity to the one who performs it, and it should be performed under conditions, including a system of fair wages, that ensure life, health, and a decent standard of living for the worker and his family, both during his working years and in his old age, or when any circumstance deprives him of the possibility of working;

(c) Employers and workers, both rural and urban, have the right to associate themselves freely for the defense and promotion of their interests, including the right to collective bargaining and the workers' right to strike, and recognition of the juridical personality of associations and the protection of their freedom and independence, all in accordance with applicable laws;

(d) Fair and efficient systems and procedures for consultation and collaboration among the sectors of production with due regard for safeguarding the interests of the entire society;

(e) The operation of systems of public administration, banking and credit, enterprise, and distribution and sales, in such a way, in harmony with the private sector, as to meet the requirements and interests of the community;

(f) The incorporation and increasing participation of the marginal sectors of the population, in both rural and urban areas, in the economic, social, civic, cultural, and political life of the nation, in order to achieve the full integration of the national community, acceleration of the process of social mobility, and the consolidation of the democratic system. The encouragement of all efforts of popular promotion and cooperation that have as their purpose the development and progress of the community;

(g) Recognition of the importance of the contribution of organizations such as labor unions, cooperatives, and cultural, professional, business, neighborhood, and community associations to the life of the society and to the development process;

(h) Development of an efficient social security policy; and

(i) Adequate provision for all persons to have due legal aid in order to secure their rights.

ARTICLE 44

The Member States recognize that, in order to facilitate the process of Latin American regional integration, it is necessary to harmonize the social legislation of the developing countries, especially in the labor and social security fields, so that the rights of the workers shall be equally protected, and they agree to make the greatest efforts possible to achieve this goal.

CHAPTER IX. EDUCATIONAL, SCIENTIFIC, AND CULTURAL STANDARDS

ARTICLE 45

The Member States will give primary importance within their development plans to the encouragement of education, science, and culture, oriented toward the over-all improvement of the individual, and as a foundation for democracy, social justice, and progress.

ARTICLE 46

The Member States will cooperate with one another to meet their educational needs, to promote scientific research, and to encourage technological progress. They consider themselves individually and jointly bound to preserve and enrich the cultural heritage of the American peoples.

ARTICLE 47

The Member States will exert the greatest efforts, in accordance with their constitutional processes, to ensure the effective exercise of the right to education, on the following bases:

(a) Elementary education, compulsory for children of school age, shall also be offered to all others who can benefit from it. When provided by the State it shall be without charge;

(b) Middle-level education shall be extended progressively to as much of the population as possible, with a view to social improvement. It shall be diversified in such a way that it meets the development needs of each country without prejudice to providing a general education; and

(c) Higher education shall be available to all, provided that, in order to maintain its high level, the corresponding regulatory or academic standards are met.

ARTICLE 48

The Member States will give special attention to the eradication of illiteracy, will strengthen adult and vocational education systems, and will ensure that the benefits of culture will be available to the entire population. They will promote the use of all information media to fulfull these aims.

ARTICLE 49

The Member States will develop science and technology through educational and research institutions and through expanded information programs. They will organize their cooperation in these fields efficiently and will substantially increase exchange of knowledge, in accordance with national objectives and with laws and treaties in force.

ARTICLE 50

The Member States, with due respect for the individuality of each of them, agree to promote cultural exchange as an effective means of consolidating inter-American understanding; and they recognize that regional integration programs should be strengthened by close ties in the fields of education, science, and culture.

PART TWO

CHAPTER X. THE ORGANS

ARTICLE 51

The Organization of American States accomplishes its purposes by means of:

(a) The General Assembly;

(b) The Meeting of Consultation of Ministers of Foreign Affairs;
(c) The Councils;
(d) The Inter-American Juridical Committee;
(e) The Inter-American Commission on Human Rights;
(f) The General Secretariat;
(g) The Specialized Conferences; and
(h) The Specialized Organizations.

There may be established, in addition to those provided for in the Charter and in accordance with the provisions thereof, such subsidiary organs, agencies, and other entities as are considered necessary.

CHAPTER XI. THE GENERAL ASSEMBLY

ARTICLE 52

The General Assembly is the supreme organ of the Organization of American States. It has as its principal powers, in addition to such others as are assigned to it by the Charter, the following:

(a) To decide the general action and policy of the Organization, determine the structure and functions of its organs, and consider any matter relating to friendly relations among the American States;

(b) To establish measures for coordinating the activities of the organs, agencies, and entities of the Organization among themselves and such activities with those of the other institutions of the inter-American system;

(c) To strengthen and coordinate cooperation with the United Nations and its specialized agencies.

(d) To promote collaboration, especially in the economic, social and cultural fields, with other international organizations whose purposes are similar to those of the Organization of American States;

(e) To approve the program-budget of the Organization and determine the quotas of the Member States;

(f) To consider the annual and special reports that shall be presented to it by the organs, agencies, and entities of the inter-American system;

(g) To adopt general standards to govern the operations of the General Secretariat; and

(h) To adopt its own rules of procedure and, by a two-thirds vote, its agenda.

The General Assembly shall exercise its powers in accordance with the provisions of the Charter and of other inter-American treaties.

ARTICLE 53

The General Assembly shall establish the base for fixing the quota that each Government is to contribute to the maintenance of the Organization, taking into account the ability to pay of the respective countries and their determination to contribute in an equitable manner. Decisions on budgetary matters require the approval of two-thirds of the Member States.

ARTICLE 54

All Member States have the right to be represented in the General Assembly. Each State has the right to one vote.

ARTICLE 55

The General Assembly shall convene annually during the period determined by the rules of procedure and at a place selected in accordance with the principle of rotation. At each regular session the date and place of the next regular session shall be determined, in accordance with the rules of procedure.

If for any reason the General Assembly cannot be held at the place chosen, it shall meet at the General Secretariat, unless one of the Member States should make a timely offer of a site in its territory, in which case the Permanent Council of the Organization may agree that the General Assembly will meet in that place.

ARTICLE 56

In special circumstances and with the approval of two thirds of the Member States the Permanent Council shall convoke a special session of the General Assembly.

ARTICLE 57

Decisions of the General Assembly shall be adopted by the affirmative vote of an absolute majority of the Member States, except in those cases that require a two-thirds vote as provided in the Charter or as may be provided by the General Assembly in its rules of procedure.

ARTICLE 58

There shall be a Preparatory Committee of the General Assembly, composed of representatives of all the Member States, which shall:

(a) Prepare the draft agenda of each session of the General Assembly;

(b) Review the proposed program-budget and the draft resolution on quotas, and present to the General Assembly a report thereon containing the recommendations it considers appropriate; and

(c) Carry out such other functions as the General Assembly may assign to it.

The draft agenda and the report shall, in due course, be transmitted to the Governments of the Member States.

CHAPTER XII. THE MEETING OF CONSULTATION OF MINISTERS OF FOREIGN AFFAIRS

ARTICLE 59

The Meeting of Consultation of Ministers of Foreign Affairs shall be held in order to consider problems of an urgent nature and of common interest to the American States, and to serve as the Organ of Consultation.

ARTICLE 60

Any Member State may request that a Meeting of Consultation be called. The request shall be addressed to the Permanent Council of the Organization, which shall decide by an absolute majority whether a meeting should be held.

ARTICLE 61

The agenda and regulations of the Meeting of Consultation shall be prepared by the Permanent Council of the Organization and submitted to the Member States for consideration.

ARTICLE 62

If, for exceptional reasons, a Minister of Foreign Affairs is unable to attend the meeting, he shall be represented by a special delegate.

ARTICLE 63

In case of an armed attack within the territory of an American State or within the region of security delimited by treaties in force, a Meeting of Consultation shall be held without delay. Such Meeting shall be called immediately by the Chairman of the Permanent Council of the Organization, who shall at the same time call a meeting of the Permanent Council itself.

ARTICLE 64

An Advisory Defense Committee shall be established to advise the Organ of Consultation on problems of military cooperation that may arise in connection with the application of existing special treaties on collective security.

ARTICLE 65

The Advisory Defense Committee shall be composed of the highest military authorities of the American States participating in the Meeting of Consultation. Under exceptional circumstances the Governments may appoint substitutes. Each State shall be entitled to one vote.

ARTICLE 66

The Advisory Defense Committee shall be convoked under the same conditions as the Organ of Consultation, when the latter deals with matters relating to defense against aggression.

ARTICLE 67

The Committee shall also meet when the Conference or the Meeting of Consultation or the Governments, by a two-thirds majority of the Member States, assign to it technical studies or reports on specific subjects.

CHAPTER XIII. THE COUNCILS OF THE ORGANIZATION; COMMON PROVISIONS

ARTICLE 68

The Permanent Council of the Organization, the Inter-American Economic and Social Council, and the Inter-American Council for Education, Science, and Culture are directly responsible to the General Assembly and each has the authority granted to it in the Chapter and other inter-American instruments, as well as the functions assigned to it by the General Assembly and the Meeting of Consultation of Ministers of Foreign Affairs.

ARTICLE 69

All Member States have the right to be represented on each of the Councils. Each State has the right to one vote.

ARTICLE 70

The Councils may, within the limits of the Charter and other inter-American instruments, make recommendations on matters within their authority.

ARTICLE 71

The Councils, on matters within their respective competence, may present to the General Assembly studies and proposals, drafts of international instruments, and proposals on the holding of specialized conferences, on the creation, modification, or elimination of specialized organizations and other inter-American agencies, as well as on the coordination of their activities. The Councils may also present studies, proposals, and drafts of international instruments to the Specialized Conferences.

ARTICLE 72

Each Council may, in urgent cases, convoke Specialized Conferences on matters within its competence, after consulting with the Member States and without having to resort to the procedure provided for in Article 128.

ARTICLE 73

The Councils, to the extent of their ability, and with the cooperation of the General Secretariat, shall render to the Governments such specialized services as the latter may request.

ARTICLE 74

Each Council has the authority to require the other Councils, as well as the subsidiary organs and agencies responsible to them, to provide it with information and advisory services on matters within their respective spheres of competence. The Councils may also request the same services from the other agencies of the inter-American system.

ARTICLE 75

With the prior approval of the General Assembly, the Councils may establish the subsidiary organs and the agencies that they consider advisable for the better performance of their duties. When the General Assembly is not in session, the aforesaid organs or agencies may be established provisionally by the corresponding Council. In constituting the membership of these bodies, the Councils, insofar as possible, shall follow the criteria of rotation and equitable geographic representation.

ARTICLE 76

The Councils may hold meetings in any Member State, when they find it advisable and with the prior consent of the Government concerned.

ARTICLE 77

Each Council shall prepare its own statutes and submit them to the General Assembly for approval. It shall approve its own rules of procedure and those of its subsidiary organs, agencies, and committees.

CHAPTER XIV. THE PERMANENT COUNCIL OF THE ORGANIZATION

ARTICLE 78

The Permanent Council of the Organization is composed of one representative of each Member State, especially appointed by the respective Government, with the rank of ambassador. Each Government may accredit an acting representative, as well as such alternates and advisers as it considers necessary.

ARTICLE 79

The office of Chairman of the Permanent Council shall be held by each of the representatives, in turn, following the alphabetic order in Spanish of the names of their respective countries. The office of Vice Chairman shall be filled in the same way, following reverse alphabetic order.

The Chairman and the Vice Chairman shall hold office for a term of not more than six months, which shall be determined by the statutes.

ARTICLE 80

Within the limits of the Charter and of inter-American treaties and agreements, the Permanent Council takes cognizance of any matter referred to it by the General Assembly or the Meeting of Consultation of Ministers of Foreign Affairs.

ARTICLE 81

The Permanent Council shall serve provisionally as the Organ of Consultation when the circumstances contemplated in Article 63 of this charter arise.

ARTICLE 82

The Permanent Council shall keep vigilence over the maintenance of friendly relations among the Member States, and for that purpose shall effectively assist them in the peaceful settlement of their disputes, in accordance with the following provisions.

ARTICLE 83

To assist the Permanent Council in the exercise of these powers, and Inter-American Committee on Peaceful Settlement shall be established, which shall function as a subsidiary organ of the Council. The statutes of the Committee shall be prepared by the Council and approved by the General Assembly.

ARTICLE 84

The parties to a dispute may resort to the Permanent Council to obtain its good offices. In such a case the Council shall have authority to assist the parties and to recommend the procedures it considers suitable for the peaceful settlement of the dispute.

If the parties so wish, the Chairman of the Council shall refer the dispute directly to the Inter-American Committee on Peaceful Settlement.

ARTICLE 85

In the exercise of these powers, the Permanent Council, through the Inter-American Committee on Peaceful Settlement or by any other means, may ascertain the facts in the dispute, and may do so in the territory of any of the parties with the consent of the Government concerned.

ARTICLE 86

Any party to a dispute in which none of the peaceful procedures set forth in Article 24 of the Charter is being followed may appeal to the Permanent Council to take cognizance of the dispute.

The Council shall immediately refer the request to the Inter-American Committee on Peaceful Settlement, which shall consider whether or not the matter is within its competence and, if it deems it appropriate, shall offer its good offices to the other party or parties. Once these are accepted, the Inter-American Committee on Peaceful Settlement may assist the parties and recommend the procedures that it considers suitable for the peaceful settlement of the dispute.

In the exercise of these powers, the Committee may carry out an investigation of the facts in the dispute, and may do so in the territory of any of the parties and the consent of the Government concerned.

ARTICLE 87

If one of the parties should refuse the offer, the Inter-American Committee on Peaceful Settlement shall limit itself to informing the Permanent Council, without prejudice to its taking steps to restore relations between the parties, if they were interrupted, or to reestablish harmony between them.

ARTICLE 88

Once such a report is received, the Permanent Council may make suggestions for bringing the parties together for the purpose of Article 87 and, if it considers it necessary, it may urge the parties to avoid any action that might aggravate the dispute.

If one of the parties should continue to refuse the good offices of the Inter-American Committee on Peaceful Settlement or of the Council, the Council shall limit itself to submitting a report to the General Assembly.

ARTICLE 89

The Permanent Council, in the exercise of these functions, shall take its decisions by an affirmative vote of two-thirds of its members, excluding the parties to the dispute, except for such decisions as the rules of procedure provide shall be adopted by a simple majority.

ARTICLE 90

In performing their functions with respect to the peaceful settlement of disputes, the Permanent Council and the Inter-American Committee on Peaceful Settlement shall observe the provisions of the Charter and the principles and standards of international law, as well as take into account the existence of treaties in force between the parties.

ARTICLE 91

The Permanent Council shall also:

(a) Carry out those decisions of the General Assembly or of the Meeting of Consultation of Ministers of Foreign Affairs the implementation of which has not been assigned to any other body;

(b) Watch over the observance of the standards governing the operation of the General Secretariat and, when the General Assembly is not in session, adopt provisions of a regulatory nature that enable the General Secretariat to carry out its administrative functions;

(c) Act as the Preparatory Committee of the General Assembly, in accordance with the terms of Article 58 of the Charter, unless the General Assembly should decide otherwise;

(d) Prepare, at the request of the Member States and with the cooperation of the appropriate organs of the Organization, draft agreements to promote and facilitate cooperation between the Organization of American States and the United Nations or between the Organization and other American agencies of recognized international standing. These draft agreements, shall be submitted to the general assembly for approval.

(e) Submit recommendations to the General Assembly with regard to the functioning of the Organization and the coordination of its subsidiary organs, agencies, and committees;

(f) Present to the General Assembly any observations it may have regarding the reports of the Inter-American Juridical Committee and the Inter-American Commission of Human Rights; and

(g) Perform the other functions assigned to it in the Charter.

ARTICLE 92

The Permanent Council and the General Secretariat shall have the same seat.

CHAPTER XV. THE INTER-AMERICAN ECONOMIC AND SOCIAL COUNCIL

ARTICLE 93

The Inter-American Economic and Social Council is composed of one principal representative, of the highest rank, of each Member State, especially appointed by the respective Government.

ARTICLE 94

The purpose of the Inter-American Economic and Social Council is to promote cooperation among the American countries in order to attain accelerated economic and social development, in accordance with the standards set forth in Chapter VII and VIII.

ARTICLF 95

To achieve its purpose the Inter-American Economic and Social Council shall:

(a) Recommend programs and courses of action and periodically study and evaluate the efforts undertaken by the Member States;

(b) Promote and coordinate all economic and social activities of the Organization;

(c) Coordinate its activities with those of the other Councils of the Organizations;

(d) Establish cooperative relations with the corresponding organs of the United Nations and with other national and international agencies, especially with regard to coordination of inter-American technical assistance programs; and

(e) Promote the resolution of the cases contemplated in Article 35 of the Charter, establishing the appropriate procedure.

ARTICLE 96

The Inter-American Economic and Social Council shall hold at least one meeting each year at the ministerial level. It shall also meet when convoked by the General Assembly, the Meeting of Consultation of Ministers of Foreign Affairs, at its own initiative, or for the cases contemplated in Article 35 of the Charter.

ARTICLE 97

The Inter-American Economic and Social Council shall have a Permanent Executive Committee, composed of a Chairman and no less than seven other members, elected by the Council for terms to be established in the statutes of the Council. Each member shall have the right to vote. The principles of equitable geographic representation and of rotation shall be taken into account, insofar as possible, in the election of members. The Permanent Executive Committee represents all of the Member States of the Organization.

ARTICLE 98

The Permanent Executive Committee shall perform the tasks assigned to it by the Inter-American Economic and Social Council, in accordance with the general standards established by the Council.

CHAPTER XVI. THE INTER-AMERICAN COUNCIL FOR EDUCATION, SCIENCE, AND CULTURE

ARTICLE 99

The Inter-American Council for Education, Science, and Culture is composed of one principal representative, of the highest rank, of each Member State, especially appointed by the respective Government.

ARTICLE 100

The purpose of the Inter-American Council for Education, Science, and Culture is to promote friendly relations and mutual understanding between the peoples of the Americas through educational, scientific, and cultural cooperation and exchange between Member States, in order to raise the cultural level of the peoples, reaffirm their dignity as individuals, prepare them fully for the tasks of progress, and strengthen the devotion to peace, democracy, and social justice that has characterized their evolution.

ARTICLE 101

To accomplish its purposes the Inter-American Council for Education, Science, and Culture shall:

(a) Promote and coordinate the educational, scientific, and cultural activities of the Organization;

(b) Adopt or recommend pertinent measures to give effect to the standards contained in Chapter IX of the Charter;

(c) Support individual or collective efforts of the Member States to improve and extend education at all levels, giving special attention to efforts directed toward community development;

(d) Recommend and encourage the adoption of special educational programs directed toward integrating all sectors of the population into their respective national cultures;

(e) Stimulate and support scientific and technological education and research, especially when these relate to national development plans;

(f) Foster the exchange of professors, research workers, technicians, and students, as well as of study materials; and encourage the conclusion of bilateral or multilateral agreements on the progressive coordination of curricula at all educational levels and on the validity and equivalence of certificates and degrees;

(g) Promote the education of the American peoples with a view to harmonius international relations and a better understanding of the historical and cultural origins of the Americans, in order to stress and preserve their common values and destiny;

(h) Systematically encourage intellectual and artistic creativity, the exchange of cultural works and folklore, as well as the interrelationships of the different cultural regions of the Americas;

(i) Foster cooperation and technical assistance for protecting, preserving, and increasing the cultural heritage of the Hemisphere;

(j) Coordinate its activities with those of the other Councils. In harmony with the Inter-American Economic and Social Council, encourage the interrelationship of programs for promoting education, science, and culture with national development and regional integration programs;

(k) Establish cooperative relations with the corresponding organs of the United Nations and with other national and international bodies;

(l) Strengthen the civic conscience of the American peoples; as one of the bases for the effective exercise of democracy and for the observance of the rights and duties of man;

(m) Recommend appropriate procedures for intensifying integration of the developing countries of the Hemisphere by means of efforts and programs in the fields of education, science, and culture; and

(n) Study and evaluate periodically the efforts made by the Member States in the fields of education, science, and culture.

ARTICLE 102

The Inter-American Council for Education, Science, and Culture shall hold at least one meeting each year at the ministerial level. It shall also meet when convoked by the General Assembly, by the Meeting of Consultation of Ministers of Foreign Affairs, or at its own initiative.

ARTICLE 103

The Inter-American Council for Education, Science, and Culture shall have a Permanent Executive Committee, composed of a Chairman and no less than seven other members, elected by the Council for terms to be established in the statutes of the Council. Each member shall have the right to one vote. The principles of equitable geographic representation and of rotation shall be taken into account, insofar as possible, in the election of members. The Permanent Executive Committee represents all of the Member States of the Organization.

ARTICLE 104

The Permanent Executive Committee shall perform the tasks assigned to it by the Inter-American Council for Education, Science, and Culture, in accordance with the general standards established by the Council.

CHAPTER XVII. THE INTER-AMERICAN JURIDICAL COMMITTEE

ARTICLE 105

The purpose of the Inter-American Juridical Committee is to serve the Organization as an advisory body on juridical matters; to promote the progressive development and the codification of international law; and to study juridical problems related to the integration of the developing countries of the Hemisphere and insofar as may appear desirable, the possibility of attaining uniformity in their legislation.

ARTICLE 106

The Inter-American Juridical Committee shall undertake the studies and preparatory work assigned to it by the General Assembly, the Meeting of Consultation of Ministers of Foreign Affairs, or the Councils of the Organization. It may also, on its own initiative, undertake such studies and preparatory work as it considers advisable, and suggest the holding of specialized juridical conferences.

ARTICLE 107

The Inter-American Juridical Committee shall be composed of eleven jurists, nationals of Member States, elected by the General Assembly for a period of four years from panels of three candidates presented by Member States. In the election, a system shall be used that takes into account partial replacement of membership and, insofar as possible, equitable geographical representation. No two members of the Committee may be nationals of the same State. Vacancies that occur shall be filled in the manner set forth above.

ARTICLE 108

The Inter-American Juridical Committee represents all of the Member States of the Organization, and has the broadest possible technical autonomy.

ARTICLE 109

The Inter-American Juridical Committee shall establish cooperative relations with universities, institutes, and other teaching centers, as well as with national and international committees and entities devoted to study, research, teaching, or dissemination of information on juridical matters of international interests.

ARTICLE 110

The Inter-American Juridical Committee shall draft its statutes, which shall be submitted to the General Assembly for approval. The committee shall adopt its own rules of procedure

ARTICLE 111

The seat of the Inter-American Juridical Committee shall be the city of Rio de Janeiro, but in special cases the Committee may meet at any other place that may be designated, after consultation with the Member State concerned.

CHAPTER XVIII. THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

ARTICLE 112

There shall be an Inter-American Commission on Human Rights, whose principal function shall be to promote the observance and protection of human rights and to serve as a consultative organ of the Organization in these matters.

An Inter-American convention on human rights shall determine the structure, competence, and procedure of this Commission, as well as those of other organs responsible for these matters.

CHAPTER XIX. THE GENERAL SECRETARIAT

ARTICLE 113

The General Secretariat is the central and permanent organ of the Organization of the American States. It shall perform the functions assigned to it in the Charter, in other inter-American treaties and agreements, and by the General Assembly, and shall carry out the duties entrusted to it by the General Assembly, the Meeting of Consultation of Ministers of Foreign Affairs, or the Councils.

ARTICLE 114

The Secretary General of the Organization shall be elected by the General Assembly for a five-year term and may not be reelected more than once or succeeded by a person of the same nationality. In the event that the office of Secretary General becomes vacant, the Assistant Secretary General shall assume his duties until the General Assembly shall elect a new Secretary General for a full term.

ARTICLE 115

The Secretary General shall direct the General Secretariat, be the legal representative thereof, and, notwithstanding the provisions of Article 91.b, be responsible to the General Assembly for the proper fulfillment of the obligations and functions of the General Secretariat.

ARTICLE 116

The Secretary General, or his representative, participates with voice but without vote in all meetings of the Organization.

ARTICLE 117

The General Secretariat shall promote economic, social, juridical, educational, scientific, and cultural relations among all the Member States of the Organization, in keeping with the actions and policies decided upon by the General Assembly and with the pertinent decisions of the Councils.

ARTICLE 118

The General Secretariat shall also perform the following functions:

(a) Transmit *ex officio* to the Member States notice of the convocation of the General Assembly, the Meeting of Consultation of Ministers of Foreign Affairs, the Inter-American Economic and Social Council, the Inter-American Council for Education, Science, and Culture, and the Specialized Conferences;

(b) Advise the other organs, when appropriate, in the preparation of agenda and rules of procedure;

(c) Prepare the proposed program-budget of the Organization on the basis of programs adopted by the Councils, agencies, and entities whose expenses should be included in the program-budget and, after consultation with the Councils or their permanent committees, submit it to the Preparatory Committee of the General Assembly and then to the Assembly itself;

(d) Provide, on a permanent basis, adequate secretariat services for the General Assembly and the other organs, and carry out their directives and assignments. To the extent of its ability, provide services for the other meetings of the Organization;

(e) Serve as custodian of the documents and archives of the Inter-American Conferences, the General Assembly, the Meetings of Consultation of Ministers of Foreign Affairs, the Councils, and the Specialized Conferences;

(f) Serve as depository of Inter-American treaties and agreements, as well as of the instruments of ratification thereof;

(g) Submit to the General Assembly at each regular session an annual report on the activities of the Organization and its financial condition; and

(h) Establish relations of cooperation, in accordance with decisions reached by the General Assembly or the Councils, with the Specialized Organizations as well as other national and international organizations.

ARTICLE 119

The Secretary General shall:

(a) Establish such offices of the General Secretariat as are necessary to accomplish its purposes; and

(b) Determine the number of officers and employees of the General Secretariat, appoint them, regulate their powers and duties, and fix their remuneration.

The Secretary General shall exercise this authority in accordance with such general standards and budgetary provisions as may be established by the General Assembly.

ARTICLE 120

The Assistant Secretary General shall be elected by the General Assembly for a five-year term and may not be reelected more than once or succeeded by a person of the same nationality. In the event that the office of Assistant Secretary General becomes vacant, the Permanent Council shall elect a substitute to hold that office until the General Assembly shall elect a new Assistant Secretary General for a full term.

ARTICLE 121

The Assistant Secretary General shall be the Secretary of the Permanent Council. He shall serve as advisory officer to the Secretary General and shall act as his delegate in all matters that the Secretary General may entrust to him. During the temporary absence or disability of the Secretary General, the Assistant Secretary General shall perform his functions.

The Secretary General and the Assistant Secretary General shall be of different nationalities.

ARTICLE 122

The General Assembly, by a two-thirds vote of the Member States, may remove the Secretary General or the Assistant Secretary General, or both, whenever the proper functioning of the Organization so demands.

ARTICLE 123

The Secretary General shall appoint, with the approval of the respective Council, the Executive Secretary for Economic and Social Affairs and the Executive Secretary for Education, Science, and Culture, who shall also be the secretaries of the respective Councils.

ARTICLE 124

In the performance of their duties, the Secretary General and the personnel of the Secretariat shall not seek or receive instructions from any Government or from any authority outside the Organization, and shall refrain from any action that may be incompatible with their position as international officers responsible only to the Organization.

ARTICLE 125

The Member States pledge themselves to respect the exclusively international character of the responsibilities of the Secretary General and the personnel of the General Secretariat, and not to seek to influence them in the discharge of their duties.

ARTICLE 126

In selecting the personnel of the General Secretariat, first consideration shall be given to efficiency, competence, and integrity; but at the same time, in the recruitment of personnel of all ranks, importance shall be given to the necessity of obtaining as wide a geographic representation as possible.

ARTICLE 127

The seat of the General Secretariat is the city of Washington.

CHAPTER XX. THE SPECIALIZED CONFERENCES

ARTICLE 128

The Specialized Conferences are intergovernmental meetings to deal with special technical matters or to develop specific aspects of inter-American cooperation. They shall be held when either the General Assembly or the Meeting of Consultation of Ministers of Foreign Affairs so decides, on its own initiative or at the request of one of the Councils or Specialized Organizations.

ARTICLE 129

The agenda and rules procedure of the Specialized Conferences shall be prepared by the Councils or Specialized Organizations concerned and shall be submitted to the Governments of the Member States for consideration.

CHAPTER XXI. THE SPECIALIZED ORGANIZATIONS

ARTICLE 130

For the purposes of the present Charter, Inter-American Specialized Organizations are the intergovernmental organizations established by multilateral agreements and having specific functions with respect to technical matters of common interest to the American States.

ARTICLE 131

The General Secretariat shall maintain a register of the organizations that fulfill the conditions set forth in the foregoing Article, as determined by the General Assembly after a report from the Council concerned.

ARTICLE 132

The Specialized Organizations shall enjoy the fullest technical autonomy, but they shall take into account the recommendations of the General Assembly and of the Councils, in accordance with the provisions of the Charter.

ARTICLE 133

The Specialized Organizations shall transmit to the General Assembly annual reports on the progress of their work and on their annual budgets and expenses.

ARTICLE 134

Relations that should exist between the Specialized Organizations and the Organization shall be defined by means of agreements concluded between each organization and the Secretary General, with the authorization of the General Assembly.

ARTICLE 135

The Specialized Organizations shall establish cooperative relations with world agencies of the same character in order to coordinate their activities. In concluding agreements with international agencies of a worldwide character, the Inter-American Specialized Organizations shall preserve their identity and their status as integral parts of the Organization of American States, even when they perform regional functions of international agencies.

ARTICLE 136

In determining the location of the Specialized Organizations consideration shall be given to the interest of all of the Member States and to the desirability of selecting the seats of these organizations on the basis of a geographic representation as equitable as possible.

PART THREE

CHAPTER XXII. THE UNITED NATIONS

ARTICLE 137

None of the provisions of this Chapter shall be construed as impairing the rights and obligations of the Member States under the Charter of the United Nations.

CHAPTER XXIII. MISCELLANEOUS PROVISIONS

ARTICLE 138

Attendance at meetings of the permanent organs of the Organization of American States or at the conferences and meetings provided for in the Charter, or held under the auspices of the Organization, shall be in accordance with the multilateral character of the aforesaid organs, conferences, and meetings and shall not depend on the bilateral relations between the Government of any Member State and the Government of the host country.

ARTICLE 139

The Organization of American States shall enjoy in the territory of each Member such legal capacity, privileges, and immunities as are necessary for the exercise of its functions and the accomplishment of its purposes.

ARTICLE 140

The representatives of the Member States on the organs of the Organization, the personnel of their delegations, as well as the Secretary General and the Assistant Secretary General shall enjoy the privileges and immunities corresponding to their positions and necessary for the independent performance of their duties.

ARTICLE 141

The judicial status of the Specialized Organization and the privileges and immunities that should be granted to them and to their personnel, as well as to the officials of the General Secretariat, shall be determined in a multilaterai agreement. The foregoing shall not preclude, when it is considered necessary, the concluding of bilateral agreements.

ARTICLE 142

Correspondence of the Organization of American States, including printed matter and parcels, bearing the frank thereof, shall be carried free of charge in the mails of the Member States.

ARTICLE 143

The Organization of American States does not allow any restriction based on race, creed, or sex, with respect to eligibility to participate in the activities of the Organization and to hold positions therein.

CHAPTER XXIV. RATIFICATION AND ENTRY INTO FORCE

ARTICLE 144

The present Charter shall remain open for signature by the American States and shall be ratified in accordance with their respective constitutional procedures. The original instrument, the Spanish, English, Portuguese and French texts of which are equally authentic, shall be deposited with the General Secretariat, which shall transmit certified copies thereof to the Governments for purposes of ratification. The instruments of ratification shall be deposited with the General Secretariat, which shall notify the signatory States of such deposit.

ARTICLE 145

The present Charter shall enter into force among their ratifying States when two-thirds of the signatory States have deposited their ratifications. It shall enter into force with respect to the remaining States in the order in which they deposit their ratifications.

ARTICLE 146

The present Charter shall be registered with the Secretariat of the United Nations through the General Secretariat.

ARTICLE 147

Amendments to the present Charter may be adopted only at a General Assembly convened for that purpose. Amendments shall enter into force in accordance with the terms and the procedure set forth in Article 145.

ARTICLE 148

The present Charter shall remain in force indefinitely, but may be denounced by any Member State upon written notification to the General Secretariat, which shall communicate to all the others each notice of denunciation received. After two years from the date on which the General Secretariat receives a notice of denunciation, the present Charter shall cease to be in force with respect to the denouncing State, which shall cease to belong to the Organization after it has fulfilled the obligations arising from the present Charter.

CHAPTER XXV. TRANSITORY PROVISIONS

ARTICLE 149

The Inter-American Committee on the Alliance for Progress shall act as the permanent executive committee of the Inter-American Economic and Social Council as long as the Alliance is in operation.

ARTICLE 150

Until the Inter-American convention on human rights, referred to in Chapter XVIII, enters into force, the present Inter-American Commission on Human Rights shall keep vigilance over the observance of human rights.

Reservations Made at the Time of Ratification

Note.—The original Charter was signed April 30, 1948, for the Argentine Republic, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba,[4] the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, the United States of America, Uruguay, and Venezuela and the following reservations were made at the time of ratifying:

Guatemala

None of the stipulations of the present Charter of the Organization of American States may be considered as an impediment to Guatemala's assertion of its rights over the territory of Belize by such means as at any time it may deem advisable.[5]

Peru

With the reservation that the principles of inter-American solidarity and cooperation and essentially those set forth in the preamble and declarations of the Act of Chapultepec constitute standards for the mutual relations between the American States and juridical bases on the inter-American system.

United States

That the Senate give its advice and consent to ratification of the Charter with the reservation that none of its provisions shall be considered as enlarging the powers of the Federal Government of the United States or limiting the powers of the several states of the Federal Union with respect to any matters recognized under the Constitution as being within the reserved powers of the several states.

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[4] The present Government in Cuba is excluded from participation in the inter-American system by Resolution VI of the 8th Meeting of the Consultation of Ministers of Foreign Affairs, Punta del Este, Uruguay, January 22-31, 1962.

[5] With respect to this reservation, the Pan American Union consulted the signatory governments, in accordance with the procedure established by paragraph 2 of Resolution XXIX of the Eighth International Conference of American States, to ascertain whether they found it acceptable or not. At the request of the Government of Guatemala, this consultation was accompanied by a formal declaration of that Government to the effect that its reservation did not imply any alteration in the Charter of the Organization of American States, and that Guatemala is ready to act at all times within the bounds of international agreements to which it is a party. In view of this declaration, the States that previously did not find the reservation acceptable expressed their acceptance.

(2) Protocol of Amendment to the Charter of the Organization of American States[1] (Protocol of Buenos Aires)

Signed at the Third Special Inter-American Conference at Buenos Aires, February 27, 1967; Ratification advised by the Senate of the United States of America April 10, 1968; Ratified by the President of the United States of America April 23, 1968; Ratification of the United States of America deposited with the General Secretariat of the Organization of American States April 26, 1968; Proclaimed by the President of the United States of America March 23, 1970; Entered into force February 27, 1970

The Member States of the Organization of American States, represented at the Third Special Inter-American Conference,

CONSIDERING:

That the Charter of the Organization of American States signed at Bogotá in 1948, set forth the purpose of achieving an order of peace and justice, promoting solidarity among the American States, strengthening their collaboration and defending their sovereignty, their territorial integrity, and their independence;

That the Second Special Inter-American Conference, held in Rio de Janeiro in 1965, declared that it was essential to forge a new dynamism for the inter-American system and imperative to modify the working structure of the Organization of American States, as well as to establish in the Charter new objectives and standards for the promotion of the economic, social, and cultural development of the peoples of the Hemisphere, and to speed up the process of economic integration; and

That it is essential to reaffirm the determination of the American States to combine their efforts in a spirit of solidarity in the permanent task of achieving the general conditions of well-being that will ensure a life of dignity and freedom to their peoples,

HAVE AGREED UPON THE FOLLOWING

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NOTE.—See pages 804 to 832 for text of the Charter of the Organization of American States as amended in accordance with Articles I through XXIII of this Protocol.

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[1] 21 UST 607; TIAS 6847.

ARTICLE XXIV

The terms "General Assembly", "Permanent Council of the Organization" or "Permanent Council", and "General Secretariat", shall be substituted, as the case may be, for the terms "Inter-American Conference", "Council of the Organization" or "Council", and "Pan American Union", wherever the latter terms appear in those Articles of the Charter that have not been eliminated or specifically amended by the present Protocol. In the English text of such articles the terms of "Hemisphere" and "hemispheric" shall be substitued for "continent" and "continental".

ARTICLE XXV

The present Protocol shall remain open for signature by the American States and shall be ratified in accordance with their respective constitutional procedures. The original instrument, the Spanish, English, Portuguese, and French texts of which are equally authentic, shall be deposited with the General Secretariat, which shall transmit certified copies thereof to the Governments for purposes of ratification. The instruments of ratification shall be deposited with the General Secretariat, which shall notify the signatory States of each such deposit.

ARTICLE XXVI

The present Protocol shall enter into force among the ratifying States when two thirds of the States signatory to the Charter have deposited their instruments of ratification. It shall enter into force with respect to the remaining States in the order in which they deposit their instruments of ratification.

ARTICLE XXVII

The present Protocol shall be registered with the Secretariat of the United Nations through the General Secretariat of the Organization.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, whose full powers have been found to be in good and due form, sign the present Protocol, which shall be known as the "Protocol of Buenos Aires", at the city of Buenos Aries, Republic of Argentina, this twenty-seventh day of February of the year one thousand nine hundred sixty-seven.

STATEMENT OF THE DELEGATION OF ECUADOR

The Delegation of Ecuador, drawing its inspiration from the devotion of the people and the Government of Ecuador to peace and law, states for the record that the provisions approved with respect to peaceful settlement of disputes do not carry out the purpose of Resolution XIII of the Second Special Inter-American Conference, and that the Permanent Council has not been given sufficient powers to aid the Member States effectively in the peaceful settlement of their disputes.

The Delegation of Ecuador signs this Protocol of Amendment to the Charter of the Organization of American States in the understanding that none of its provisions in any way limits the right of the Member States to take their disputes, whatever their nature and the subject they deal with, to the Organization, so that it may assist the parties and recommend the suitable procedures for peaceful settlement thereof.

STATEMENT OF THE DELEGATION OF PANAMA

The Delegation of Panama, upon signing the Protocol of Amendment of the Charter of the Organization of American States, states that it does so in the understanding that none of its provisions limits or in any way impedes the right of Panama to bring before the Organization any conflict or dispute that may have arisen with another Member State to which a just solution has not been given within a reasonable period after applying, without positive results, any of the procedures for peaceful settlement set forth in Article 21 of the present Charter.

STATEMENT OF THE DELEGATION OF ARGENTINA

On signing the present Protocol, the Argentine Republic reiterates its firm conviction that the amendments introduced in the Charter of the OAS do not duly cover the requirements of the Organization, inasmuch as its basic instrument should contain, in addition to the organic, economic, social, and cultural standards, the essential provisions that would make the security system of the Hemisphere effective.

c. Act of Bogotá

Act of Bogotá, recommending Measures for Social Improvement and Economic Development within the Framework of Operation Pan America, adopted by the Council of the Organization of American States on September 13, 1960, and approved by the Council in a resolution dated October 11, 1960 [1]

The Special Committee to Study the Foundation of New Measures for Economic Cooperation,

RECOGNIZING that the preservation and strengthening of free and democratic institutions in the American republics requires the acceleration of social and economic progress in Latin America adequate to meet the legitimate aspirations of the peoples of the Americas for a better life and to provide them the fullest opportunity to improve their status;

RECOGNIZING that the interests of the American republics are so interrelated that sound social and economic progress in each is of importance to all and that lack of it in any American republic may have serious repercussions in others;

COGNIZANT of the steps already taken by many American republics to cope with the serious economic and social problems confronting them, but convinced that the magnitude of these problems calls for redoubled efforts by governments and for a new and vigorous program of inter-American cooperation;

RECOGNIZING that economic development programs, which should be urgently strengthened and expanded, may have a delayed effect on social welfare, and that accordingly early measures are needed to cope with social needs;

RECOGNIZING that the success of a cooperative program of economic and social progress will require maximum self-help efforts on the part of the American republics and, in many cases, the improvement of existing institutions and practices, particularly in the fields of taxation, the ownership and use of land, education and training, health and housing;

BELIEVING it opportune to give further practical expression to the spirit of Operation Pan America by immediately enlarging the opportunities of the people of Latin America for social progress, thus strengthening of their hopes for the future;

CONSIDERING it advisable to launch a program for social development, in which emphasis should be given to those measures that meet social needs and also promote increases in productivity and strengthen economic development,

RECOMMENDS to the Council of the Organization of American States:

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[1] Department of State Bulletin, Oct. 3, 1960, p. 537; *American Foreign Policy, Current Documents 1960*, pp. 293-299.

I. MEASURES FOR SOCIAL IMPROVEMENT

An inter-American program for social development should be established which should be directed to the carrying out of the following measures of social improvement in Latin America, as considered appropriate in each country:

A. *Measures for the improvement of conditions of rural living and land use*

1. The examination of existing legal and institutional systems with respect to:

a. land tenure legislation and facilities with a view to ensuring a wider and more equitable distribution of the ownership of land, in a manner consistent with the objectives of employment, productivity and economic growth;

b. agricultural credit institutions with a view to providing adequate financing to individual farmers or groups of farmers;

c. tax systems and procedures and fiscal policies with a view to assuring equity of taxation and encouraging improved use of land, especially of privately-owned land which is idle.

2. The initiation or acceleration of appropriate programs to modernize and improve the existing legal and institutional framework to ensure better conditions of land tenure, extend more adequate credit facilities and provide increased incentives in the land tax structure.

3. The acceleration of the preparation of projects and programs for:

a. land reclamation and land settlement, with a view to promoting more widespread ownership and efficient use of land, particularly of unutilized or under-utilized land;

b. the increase of the productivity of land already in use; and

c. the construction of farm-to-market and access roads.

4. The adoption or acceleration of other government service programs designed particularly to assist the smaller farmer, such as new or improved marketing organizations; extension services; research and basic surveys; and demonstration, education, and training facilities.

B. *Measures for the improvement of housing and community facilities*

1. The examination of existing policies in the field of housing and community facilities, including urban and regional planning, with a view to improving such policies, strengthening public institutions and promoting private initiative and participation in programs in these fields. Special consideration should be given to encouraging financial institutions to invest in low-cost housing on a long-term basis and in building and construction industries.

2. The strengthening of the existing legal and institutional framework for mobilizing financial resources to provide better housing and related facilities for the people and to create new institutions for this purpose when necessary. Special consideration should be given to legislation and measures which would encourage the establishment and growth of:

a. private financing institutions, such as building and loan associations;

b. institutions to insure sound housing loans against loss;

c. institutions to serve as a secondary market for home mortgages;

d. institutions to provide financial assistance to local communities for the development of facilities such as water supply, sanitation and other public works.

Existing national institutions should be utilized, wherever practical and appropriate, in the application of external resources to further the development of housing and community facilities.

3. The expansion of home building industries through such measures as the training of craftsmen and other personnel, research, the introduction of new techniques, and the development of construction standards for low- and medium-cost housing.

4. The lending of encouragement and assistance to programs, on a pilot basis for aided self-help housing, for the acquisition and subdivision of land for low-cost housing developments, and for industrial housing projects.

C. *Measures for the improvement of educational systems and training facilities*

1. The reexamination of educational systems, giving particular attention to:

a. the development of modern methods of mass education for the eradication of illiteracy;

b. the adequacy of training in the industrial arts and sciences with due emphasis on laboratory and work experience and on the practical application of knowledge for the solution of social and economic problems;

c. the need to provide instruction in rural schools not only in basic subjects but also in agriculture, health, sanitation, nutrition, and in methods of home and community improvement;

d. the broadening of courses of study in secondary schools to provide the training necessary for clerical and executive personnel in industry, commerce, public administration, and community service;

e. specialized trade and industrial education related to the commercial and industrial needs of the community;

f. vocational agricultural instruction;

g. advanced education of administrators, engineers, economists, and other professional personnel of key importance to economic development.

D. *Measures for the improvement of public health*

1. The reexamination of programs and policies of public health, giving particular attention to:

a. strenthening the expansion of national and local health services, especially those directed to the reduction of infant mortality;

b. the progressive development of health insurance systems, including those providing for maternity, accident and disability insurance, in urban and rural areas;

c. the provision of hospital and health service in areas located away from main centers of population;

d. the extension of public medical services to areas of exceptional need;

e. the strengthening of campaigns for the control or elimination of communicable diseases with special attention to the eradication of malaria;

f. the provision of water supply facilities for purposes of health and economic development;

g. the training of public health officials and technicians;

h. the strengthening of programs of nutrition for low-income groups.

E. *Measures for the mobilization of domestic resources*

1. This program shall be carried out within the framework of the maximum creation of domestic savings and of the improvement of fiscal and financial practices;

2. The equity and effectiveness of existing tax schedules, assessment practices and collection procedures shall be examined with a view to providing additional revenue for the purpose of this program;

3. The allocation of tax revenues shall be reviewed, having in mind an adequate provision of such revenues to the areas of social development mentioned in the foregoing paragraphs.

II. CREATION OF A SPECIAL FUND FOR SOCIAL DEVELOPMENT

1. The delegations of the Governments of the Latin American republics welcome the decision of the Government of the United States to establish a special inter-American fund for social development, with the Inter-American Development Bank to become the primary mechanism for the administration of the fund.

2. It is understood that the purpose of the special fund would be to contribute capital resources and technical assistance on flexible terms and conditions, including repayment in local currency and the relending of repaid funds, in accordance with appropriate and selective criteria in the light of the resources available, to support the efforts of the Latin American countries that are prepared to initiate or expand effective institutional improvements and to adopt measures to employ efficiently their own resources with a view to achieving greater social progress and more balanced economic growth.

III. MEASURES FOR ECONOMIC DEVELOPMENT

The Special Committee,

HAVING IN VIEW Resolution VII adopted at the Seventh Meeting of Consultation of Ministers of Foreign Affairs expressing the need for the maximum contribution of member countries in hemisphere cooperation in the struggle against underdevelopment, in pursuance of the objectives of Operation Pan America,

EXPRESSES ITS CONVICTION

1. That within the framework of Operation Pan America, the economic development of Latin America requires prompt action of exceptional breadth in the field of international cooperation and domestic effort comprising:

a. additional public and private financial assistance on the part of capital exporting countries of America, Western Europe, and international lending agencies within the framework of their charters, with special attention to:

i. the need for loans on flexible terms and conditions, including, whenever advisable in the light of the balance of payments situation of individual countries, the possibility of repayment in local currency,

ii. the desirability of the adequate preparation and implementation of development projects and plans, within the framework of the monetary, fiscal and exchange policies necessary for their effectiveness, utilizing as appropriate the technical assistance of inter-American and international agencies.

iii. the advisability, in special cases, of extending foreign financing for the coverage of local expenditures;

b. mobilization of additional domestic capital, both public and private;

c. technical assistance by the appropriate international agencies in the preparation and implementation of national and regional Latin American development projects and plans;

d. the necessity for developing and strengthening credit facilities for small and medium private business, agriculture and industry.

RECOMMENDS:

1. That special attention be given to an expansion of long-term lending, particularly in view of the instability of exchange earnings of countries exporting primary products and of the unfavourable effect of the excessive accumulation of short- and medium-term debt on continuing and orderly economic development.

2. That urgent attention be given to the search for effective and practical ways, appropriate to each commodity, to deal with the problem of the instability of exchange earnings of countries heavily dependent upon the exportation of primary products.

IV. MULTILATERAL COOPERATION FOR SOCIAL AND ECONOMIC PROGRESS

The Special Committee,

CONSIDERING the need for providing instruments and mechanisms for the implementation of the program of inter-American economic and social cooperation which would periodically review the progress made and propose measures for further mobilization of resources,

RECOMMENDS:

1. That the Inter-American Economic and Social Council undertake to organize annual consultative meetings to review the social and economic progress of member countries, to analyze and discuss the progress achieved and the problems encountered in each country, to exchange opinions on possible measures that might be adopted to intensify further social and economic progress, within the framework of Operation Pan America, and to prepare reports on the outlook for the future. Such annual meetings should begin

with an examination by experts and terminate with a session at the ministerial level.

2. That the Council of the Organization of American States convene within 60 days of the date of this Act a special meeting of senior government representatives to find ways of strengthening and improving the ability of the Inter-American Economic and Social Council to render effective assistance to governments with a view to achieving the objectives enumerated below, taking into account the proposal submitted by the delegation of Argentina in Document CECE/III-13:

a. To further the economic and social development of Latin American countries;

b. To promote trade between the countries of the Western Hemisphere as well as between them and extra-continental countries;

c. To facilitate the flow of capital and the extension of credits to the countries of Latin America both from the Western Hemisphere and from extra-continental sources.

3. The special meeting shall:

a. Examine the existing structure of the Inter-American Economic and Social Council, and of the units of the Secretariat of the Organization of American States working in the economic and social fields, with a view to strengthening and improving the Inter-American Economic and Social Council;

b. Determine the means of strengthening inter-American economic and social cooperation by an administrative reform of the Secretariat, which should be given sufficient technical, administrative and financial flexibility for the adequate fulfillment of its tasks;

c. Formulate recommendations designed to assure effective coordination between the Inter-American Economic and Social Council, the Economic Commission for Latin America, the Inter-American Development Bank, the United Nations and its Specialized Agencies and other agencies offering technical advice and services in the Western Hemisphere.

d. Propose procedures designed to establish effective liaison of the Inter-American Economic and Social Council and other regional American organizations with other international organizations for the purpose of study, discussion and consultation in the fields of international trade and financial and technical assistance;

e. And formulate appropriate recommendations to the Council of the Organization of American States.

In approving the Act of Bogotá the Delegations to the Special Committee, convinced that the people of the Americas can achieve a better life only within the democratic system, renew their faith in the essential values which lie at the base of Western civilization, and re-affirm their determination to assure the fullest measure of well-being to the people of the Americas under conditions of freedom and respect for the supreme dignity of the individual.

d. The Charter of Punta del Este, Establishing an Alliance for Progress Within the Framework of Operation Pan America[1]

PREAMBLE

We, the American Republics, hereby proclaim our decision to unite in a common effort to bring our people accelerated economic progress and broader social justice within the framework of personal dignity and political liberty.

Almost two hundred years ago we began in this Hemisphere the long struggle for freedom which now inspires people in all parts of the world. Today, in ancient lands, men moved to hope by the revolutions of our young nations search for liberty. Now we must give a new meaning to that revolutionary heritage. For America stands at a turning point in history. The men and women of our Hemisphere are reaching for the better life which today's skills have placed within their grasp. They are determined for themselves and their children to have decent and ever more abundant lives, to gain access to knowledge and equal opportunity for all, to end those conditions which benefit the few at the expense of the needs and dignity of the many. It is our inescapable task to fulfill these just desires—to demonstrate to the poor and forsaken of our countries, and of all lands, that the creative powers of free men hold the key to their progress and to the progress of future generations. And our certainty of ultimate success rests not alone on our faith in ourselves and in our nations but on the indomitable spirit of free man which has been the heritage of American civilization.

Inspired by these principles, and by the principles of Operation Pan America and the Act of Bogotá, the American Republics hereby resolve to adopt the following program of action to establish and carry forward an Alliance for Progress.

TITLE I. OBJECTIVES OF THE ALLIANCE FOR PROGRESS

It is the purpose of the Alliance for Progress to enlist the full energies of the peoples and governments of the American republics in a great cooperative effort to accelerate the economic and social development of the participating countries of Latin America, so that they may achieve maximum levels of well-being, with equal opportunities for all, in democratic societies adapted to their own needs and desires.

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[1] Department of State Bulletin, Sept. 11, 1961, p. 463; *American Foreign Policy, Current Documents 1961*, pp. 395–409. The special meeting of the Inter-American Economic and Social Council which began at Punta del Este, Uruguay, on August 5, 1961, was concluded on August 17, 1961 with the signing of a declaration and a charter by all members of the Organization of American States except Cuba. The signatories include: Argentina, Bolivia, Brazil, Colombia, Costa Rica, Chile, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, United States, Uruguay, and Venezuela.

The American Republics agree to work toward the achievement of the following fundamental goals in the present decade:

1. To achieve in the participating Latin American countries a substantial and sustained growth of per capita income at a rate designed to attain, at the earliest possible date, levels of income capable of assuring self-sustaining development, and sufficient to make Latin American income levels constantly larger in relation to the levels of the more industrialized nations. In this way the gap between the living standards of Latin America and those of the more developed countries can be narrowed. Similarly, presently existing differences in income levels among the Latin American countries will be reduced by accelerating the development of the relatively less developed countries and granting them maximum priority in the distribution of resources and in international cooperation in general. In evaluating the degree of relative development, account will be taken not only of average levels of real income and gross product per capita, but also of indices of infant mortality, illiteracy, and per capita daily caloric intake.

It is recognized that, in order to reach these objectives within a reasonable time, the rate of economic growth in any country of Latin America should be not less than 2.5 percent per capita per year, and that each participating country should determine its own growth target in the light of its stage of social and economic evolution, resource endowment, and ability to mobilize national efforts for development.

2. To make the benefits of economic progress available to all citizens of all economic and social groups through a more equitable distribution of national income, raising more rapidly the income and standard of living of the needier sectors of the population, at the same time that a higher proportion of the national product is devoted to investment.

3. To achieve balanced diversification in national economic structures, both regional and functional, making them increasingly free from dependence on the export of a limited number of primary products and the importation of capital goods while attaining stability in the prices of exports or in income derived from exports.

4. To accelerate the process of rational industrialization so as to increase the productivity of the economy as a whole, taking full advantage of the talents and energies of both the private and public sectors, utilizing the natural resources of the country and providing productive and remunerative employment for unemployed or part-time workers. Within this process of industrialization, special attention should be given to the establishment and development of capital-goods industries.

5. To raise greatly the level of agricultural productivity and output and to improve related storage, transportation, and marketing services.

6. To encourage, in accordance with the characteristics of each country, programs of comprehensive agrarian reform leading to the effective transformation, where required, of unjust structures and systems of land tenure and use, with a view to replacing latifundia and dwarf holdings by an equitable system of land tenure so that, with the help of timely and adequate credit, technical assistance and facilities for the marketing and distribution of products, the

land will become for the man who works it the basis of his economic stability, the foundation of his increasing welfare, and the guarantee of his freedom and dignity.

7. To eliminate adult illiteracy and by 1970 to assure, as a minimum, access to 6 years of primary education for each school-age child in Latin America; to modernize and expand vocational, technical, secondary and higher educational and training facilities, to strengthen the capacity for basic and applied research; and to provide the competent personnel required in rapidly-growing societies.

8. To increase life expectancy at birth by a minimum of 5 years, and to increase the ability to learn and produce, by improving individual and public health. To attain this goal it will be necessary, among other measures, to provide adequate potable water supply and sewage disposal to not less than 70 percent of the urban and 50 percent of the rural population; to reduce the present mortality rate of children less than 5 years of age by at least one-half; to control the more serious communicable diseases, according to their importance as a cause of sickness, disability, and death; to eradicate those illnesses, especially malaria, for which effective techniques are known; to improve nutrition; to train medical and health personnel to meet at least minimum requirements; to improve basic health services at national and local levels; and to intensify scientific research and apply its results more fully and effectively to the prevention and cure of illness.

9. To increase the construction of low-cost houses for low-income families in order to replace inadequate and deficient housing and to reduce housing shortages; and to provide necessary public services to both urban and rural centers of population.

10. To maintain stable price levels, avoiding inflation or deflation and the consequent social hardships and maldistribution of resources, always bearing in mind the necessity of maintaining an adequate rate of economic growth.

11. To strengthen existing agreements on economic integration, with a view to the ultimate fulfillment of aspirations for a Latin American common market that will expand and diversify trade among the Latin American countries and thus contribute to the economic growth of the region.

12. To develop cooperative programs designed to prevent the harmful effects of excessive fluctuations in the foreign exchange earnings derived from exports of primary products, which are of vital importance to economic and social development; and to adopt the measures necessary to facilitate the access of Latin American exports to international markets.

TITLE II. ECONOMIC AND SOCIAL DEVELOPMENT

CHAPTER I. BASIC REQUIREMENTS FOR ECONOMIC AND SOCIAL DEVELOPMENT

The American Republics recognize that to achieve the foregoing goals it will be necessary:

1. That comprehensive and well-conceived national programs of economic and social development, aimed at the achievement of self-

sustaining growth, be carried out in accordance with democratic principles.

2. That national programs of economic and social development be based on the principle of self-help—as established in the Act of Bogotá—and on the maximum use of domestic resources, taking into account the special conditions of each country.

3. That in the preparation an execution of plans for economic and social development, women should be placed on an equal footing with men.

4. That the Latin American countries obtain sufficient external financial assistance, a substantial portion of which should be extended on flexible conditions with respect to periods and terms of repayment and forms of utilization, in order to supplement domestic capital formation and reinforce their import capacity; and that, in support of well-conceived programs, which include the necessary structural reforms and measures for the mobilization of internal resources, a supply of capital from all external sources during the coming 10 years of at least 20 billion dollars be made available to the Latin American countries, with priority to the relatively less developed countries. The greater part of this sum should be in public funds.

5. That institutions in both the public and private sectors, including labor organizations, cooperatives, and commercial, industrial, and financial institutions, be strengthened and improved for the increasing and effective use of domestic resources, and that the social reforms necessary to permit a fair distribution of the fruits of economic and social progress be carried out.

CHAPTER II. NATIONAL DEVELOPMENT PROGRAMS

1. Participating Latin American countries agree to introduce or strengthen systems for the preparation, execution, and periodic revision of national programs for economic and social development consistent with the principles, objectives, and requirements contained in this document. Participating Latin American countries should formulate, if possible within the next eighteen months, long-term development programs. Such programs should embrace, according to the characteristics of each country, the elements outlined in the Appendix.

2. National development programs should incorporate self-help efforts directed to:

   a. Improvement of human resources and widening of opportunities by raising general standards of education and health; improving and extending technical education and professional training with emphasis on science and technology; providing adequate remuneration for work performed, encouraging the talents of managers, entrepreneurs, and wage earners; providing more productive employment for underemployed manpower; establishing effective systems of labor relations, and procedures for consultation and collaboration among public authorities, employer associations, and labor organizations; promoting the establishment and expansion of local institutions for basic and applied research; and improving the standards of public administration.

b. Wider development and more efficient use of natural resources, especially those which are now idle or under-utilized, including measures for the processing of raw materials.

c. The strengthening of the agricultural base, progressively, extending the benefits of the land to those who work it, and ensuring in countries with Indian populations the integration of these populations into the economic, social, and cultural processes of modern life. To carry out these aims, measures should be adopted, among others, to establish or improve, as the case may be, the following services: extension, credit, technical assistance, agricultural research and mechanization; health and education; storage and distribution; cooperatives and farmers' associations; and community development.

d. More effective, rational and equitable mobilization and use of financial resources through the reform of tax structures, including fair and adequate taxation of large incomes and real estate, and the strict application of measures to improve fiscal administration. Development programs should include the adaptation of budget expenditures to development needs, measures for the maintenance of price stability, the creation of essential credit facilities at reasonable rates of interest, and the encouragement of private savings.

e. Promotion through appropriate measures, including the signing of agreements for the purpose of reducing or eliminating double taxation, of conditions that will encourage the flow of foreign investments and help to increase the capital resources of participating countries in need of capital.

f. Improvement of systems distribution and sales in order to make markets more competitive and prevent monopolistic practices.

CHAPTER III. IMMEDIATE AND SHORT-TERM ACTION MEASURES

1. Recognizing that a number of Latin American countries, despite their best efforts, may require emergency financial assistance, the United States will provide assistance from the funds which are or may be established for such purposes. The United States stands ready to take prompt action on applications for such assistance. Applications relating to existing situations should be submitted within the next 60 days.

2. Participating Latin American countries should, in addition to creating or strengthening machinery for long-term development programing, immediately increase their efforts to accelerate their development by giving special emphasis to the following objectives:

a. The completion of projects already underway and the initiation of projects for which the basic studies have been made, in order to accelerate their financing and execution.

b. The implementation of new projects which are designed:

(1) To meet the most pressing economic and social needs and benefit directly the greatest number of people;

(2) To concentrate efforts within each country in the less developed or more depressed areas in which particularly serious social problems exist;

(3) To utilize idle capacity or resources, particularly under-employment manpower; and

(4) To survey and assess natural resources.

c. The facilitation of the preparation and execution of long-term programs through measures designed:

(1) To train teachers, technicians, and specialists;

(2) To provide accelerated training to workers and farmers;

(3) To improve basic statistics;

(4) To establish needed credit and marketing facilities; and

(5) To improve services and administration.

3. The United States will assist in carrying out these short-term measures with a view to achieving concrete results from the Alliance for Progress at the earliest possible moment. In connection with the measures set forth above, and in accordance with the statement of President Kennedy, the United States will provide assistance under the Alliance, including assistance for the financing of short-term measures, totaling more than one billion dollars in the year ending march 1962.

Chapter IV. External Assistance in Support of National Development Programs

1. The economic and social development of Latin America will require a large amount of additional public and private financial assistance on the part of capital-exporting countries, including the members of the Development Assistance Group and international lending agencies. The measures provided for in the Act of Bogotá and the new measures provided for in this Charter, are designed to create a framework within which such additional assistance can be provided and effectively utilized.

2. The United States will assist those participating countries whose development programs establish self-help measures and economic and social policies and programs consistent with the goals and principles of this Charter. To supplement the domestic efforts of such countries, the United States is prepared to allocate resources which, along with those anticipated from other external sources, will be of a scope and magnitude adequate to realize the goals envisaged in this Charter. Such assistance will be allocated to both social and economic development and, where appropriate, will take the form of grants or loans on flexible terms and conditions. The participating countries will request the support of other capital-exporting countries and appropriate institutions so that they may provide assistance for the attainment of these objectives.

3. The United States will assist in the financing of technical assistance projects proposed by a participating country or by the General Secretariat of the Organization of American States for the purpose of:

a. Providing experts contracted in agreement with governments to work under their direction and to assist them in the preparation of specific investment projects and the strengthening of national mechanisms for preparing projects, using specialized engineering firms where appropriate;

b. Carrying out, pursuant to existing agreements for cooperation among the General Secretariat of the Organization of American States, the Economic Commission for Latin America, and the Inter-American Development Bank, field investigations and studies, including those relating to development problems, the organization of national agencies for the preparation of development programs, agrarian reform and rural development, health, cooperatives, housing, education and professional training, and taxation and tax administration; and

c. Convening meetings of experts and officials on development and related problems.

The governments or above mentioned organizations should, when appropriate, seek the cooperation of the United Nations and its specialized agencies in the execution of these activities.

4. The participating Latin American countries recognize that each has in varying degree a capacity to assist fellow republics by providing technical and financial assistance. They recognize that this capacity will increase as their economies grow. They therefore affirm their intention to assist fellow republics increasingly as their individual circumstances permit.

CHAPTER V. ORGANIZATION AND PROCEDURES

1. In order to provide technical assistance for the formulation of development programs, as may be requested by participating nations, the Organization of American States, the Economic Commission for Latin America, and the Inter-American Development Bank will continue and strengthen their agreements for coordination in this field in order to have available a group of programming experts whose service can be used to facilitate the implementation of this Charter. The participating countries will also seek an intensification of technical assistance from the specialized agencies of the United Nations for the same purpose.

2. The Inter-American Economic and Social Council, on the joint nomination of the Secretary General of the Organization of American States, the President of the Inter-American Development Bank, and the Executive Secretary of the United Nations Economic Commission for Latin America, will appoint a panel of nine high-level experts, exclusively on the basis of their experience, technical ability, and competence in the various aspects of economic and social development. The experts may be of any nationality, though if of Latin American origin an appropriate geographical distribution will be sought. They will be attached to the Inter-American Economic and Social Council, but will nevertheless enjoy complete autonomy in the performance of their duties. They may not hold any other remunerative position. The appointment of these experts will be for a period of three years, and may be renewed.

3. Each government, if it so wishes, may present its program for economic and social development for consideration by an ad hoc committee, composed of no more than three members drawn from the panel of experts referred to in the preceding paragraph together with an equal number of experts not on the panel. The experts who compose the ad hoc committee will be appointed by the Secre-

tary General of the Organization of American States at the request of the interested government and with its consent.

4. The committee will study the development program, exchange opinions with the interested government as to possible modifications and, with the consent of the government, report its conclusions to the Inter-American Development Bank and to other governments and institutions that may be prepared to extend external financial and technical assistance in connection with the execution of the program.

5. In considering a development program presented to it, the ad hoc committee will examine the consistency of the program with the principles of the Act of Bogotá and of this Charter, taking into account the elements in the Appendix.

6. The General Secretariat of the Organization of American States will provide the personnel needed by the experts referred to in paragraphs 2 and 3 of this Chapter in order to fulfill their tasks. Such personnel may be employed specifically for this purpose or may be made available from the permanent staffs of the Organization of American States, the Economic Commission for Latin America and the Inter-American Development Bank, in accordance with the present liaison arrangements between the three organizations. The General Secretariat of the Organization of American States may seek arrangements with the United Nations Secretariat, its specialized agencies and the Inter-American Specialized organizations for the temporary assignment of necessary personnel.

7. A government whose development program has been the object of recommendations made by the ad hoc committee with respect to external financing requirements may submit the program to the Inter-American Development Bank so that the Bank may undertake the negotiations required to obtain such financing, including the organization of a consortium of credit institutions and government disposed to contribute to the continuing and systematic financing, on appropriate terms, of the development program. However, the government will have full freedom to resort through any other channels to all sources of financing, for the purpose of obtaining, in full or in part, the required resources.

The ad hoc committee shall not interfere with the right of each government to formulate its own goals, priorities, and reforms in its national development programs.

The recommendations of the ad hoc committee will be of great importance in determining the distribution of public funds under the Alliance for Progress which contribute to the external financing of such programs. These recommendations shall give special consideration to Title I.1.

The participating governments will also use their good offices to the end that these recommendations may be accepted as a factor of great importance in the decisions taken, for the same purpose, by inter-American credit institutions, other international credit agencies, and other friendly governments which may be potential sources of capital.

8. The Inter-American Economic and Social Council will review annually the progress achieved in the formulation, national implementation, and international financing of development programs;

and will submit to the Council of the Organization of American States such recommendations as it deems pertinent.

APPENDIX

ELEMENTS OF NATIONAL DEVELOPMENT PROGRAMS

1. The establishment of mutually consistent targets to be aimed at over the program period in expanding productive capacity in industry, agriculture, mining, transport, power and communications, and in improving conditions of urban and rural life, including better housing, education and health.
2. The assignment of priorities and the description of methods to achieve the targets, including specific measures and major projects. Specific development projects should be justified in terms of their relative costs and benefits, including their contribution to social productivity.
3. The measures which will be adopted to direct the operations of the public sector and to encourage private action in support of the development program.
4. The estimated cost, in national and foreign currency, of major projects and of the development program as a whole, year by year over the program period.
5. The internal resources, public and private, estimated to become available for the execution of the programs.
6. The direct and indirect effects of the program on the balance of payments, and the external financing, public and private, estimated to be required for the execution of the program.
7. The basic fiscal and monetary policies to be followed in order to permit implementation of the program within a framework of price stability.
8. The machinery of public administration—including relationships with local governments, decentralized agencies and nongovernmental organizations, such as labor organizations, cooperatives, business and industrial organizations—to be used in carrying out the program, adapting it to changing circumstances and evaluating the progress made.

TITLE III. ECONOMIC INTEGRATION OF LATIN AMERICA

The American Republics consider that the broadening of present national markets in Latin America is essential to accelerate the process of economic development in the Hemisphere. It is also an appropriate means for obtaining greater productivity through specialized and complementary industrial production which will, in turn, facilitate the attainment of greater social benefits for the inhabitants of the various regions of Latin America. The broadening of markets will also make possible the better use of resources under the Alliance for Progress. Consequently, the American Republics recognize that:

1. The Montevideo Treaty (because of its flexibility and because it is open to adherence of all of the Latin American nations) and the Central American Treaty of Economic Integration are appropriate instruments for the attainment of these objectives, as was rec-

ognized in Resolution No. 11 (III) of the Ninth Session of the Economic Commission for Latin America.

2. The integration process can be intensified and accelerated not only by the specialization resulting from the broadening of markets through the liberalization of trade but also through the use of such instruments as the agreements for complementary production within economic sectors provided for in the Montevideo Treaty.

3. In order to insure the balanced and complementary economic expansion of all of the countries involved, the integration process should take into account, on a flexible basis, the condition of countries at a relatively less advanced stage of economic development, permitting them to be granted special, fair, and equitable treatment.

4. In order to facilitate economic integration in Latin America, it is advisable to establish effective relationships between the Latin American Free Trade Association and the group of countries adhering to the Central American Economic Integration Treaty, as well as between either of these groups and other Latin American countries. These arrangements should be established within the limits determined by these instruments.

5. The Latin American countries should coordinate their actions to meet the unfavorable treatment accorded to their foreign trade in world markets, particularly that resulting from certain restrictive and discriminatory policies of extracontinental countries and economic groups.

6. In the application of resources under the Alliance for Progress, special attention should be given not only to investments for multinational projects that will contribute to strengthening the integration process in all its aspects, but also to the necessary financing of industrial production, and to the growing expansion of trade in industrial products within Latin America.

7. In order to facilitate the participation of countries at a relatively lower stage of economic development in multinational Latin American economic cooperation programs, and in order to promote the balanced and harmonious development of the Latin American integration process, special attention should be given to the needs of these countries in the administration of financial resources provided under the Alliance for Progress, particularly in connection with infrastructure programs and the promotion of new lines of production.

8. The economic integration process implies a need for additional investment in various fields of economic activity and funds provided under the Alliance for Progress should cover these needs as well as those required for the financing of national development programs.

9. When groups of Latin American countries have their own institutions for financing economic integration, the financing referred to in the preceding paragraph should preferably be channeled through these institutions. With respect to regional financing designed to further the purposes of existing regional integration instruments, the cooperation of the Inter-American Development Bank should be sought in channeling extra-regional contributions which may be granted for these purposes.

10. One of the possible means for making effective a policy for the financing of Latin American integration would be to approach the International Monetary Fund and other financial sources with a view to providing a means for solving temporary balance-of-payments problems that may occur in countries participating in economic integration arrangements.

11. The promotion and coordination of transportation and communications systems is an effective way to accelerate the integration process. In order to counteract abusive practices in relation to freight rates and tariffs, it is advisable to encourage the establishment of multinational transport and communication enterprises in the Latin American countries, or to find other appropriate solutions.

12. In working toward economic integration and complementary economies, efforts should be made to achieve an appropriate coordination of national plans, or to engage in joint planning for various economies through the existing regional integration organizations. Efforts should also be made to promote an investment policy directed to the progressive elimination of unequal growth rates in the different geographic areas, particularly in the case of countries which are relatively less developed.

13. It is necessary to promote the development of national Latin American enterprises, in order that they may compete on an equal footing with foreign enterprises.

14. The active participation of the private sector is essential to economic integration and development, and except in those countries in which free enterprise does not exist, development planning by the pertinent national public agencies, far from hindering such participation, can facilitate and guide it, thus opening new perspectives for the benefit of the community.

15. As the countries of the Hemisphere still under colonial domination achieve their independence, they should be invited to participate in Latin American economic integration programs.

TITLE IV. BASIC EXPORT COMMODITIES

The American Republics recognize that the economic development of Latin America requires expansion of its trade, a simultaneous and corresponding increase in foreign exchange incomes received from exports, a lessening of cyclical of seasonal fluctuations in the incomes of those countries that still depend heavily on the export of raw materials, and the correction of the secular deterioration in their terms of trade.

They, therefore, agree that the following measures should be taken:

Chapter I. National Measures

National measures affecting commerce in primary products should be directed and applied in order to:

1. Avoid undue obstacles to the expansion of trade in these products;
2. Avoid market instability;
3. Improve the efficiency of international plans and mechanisms for stabilization; and

4. Increase their present markets and expand their area of trade at a rate compatible with rapid development.

Therefore:

A. Importing member countries should reduce and if possible eliminate, as soon as feasible, all restrictions and discriminatory practices affecting the consumption and importation of primary products, including those with the highest possible degree of processing in the country of origin, except when these restrictions are imposed temporarily for purposes of economic diversification, to hasten the economic development of less developed nations, or to establish basic national reserves. Importing countries should also be ready to support, by adequate regulations, stabilization programs for primary products that may be agreed upon with producing countries.

B. Industrialized countries should give special attention to the need for hastening economic development of less developed countries. Therefore, they should make maximum efforts to create conditions, compatible with their international obligations, through which they may extend advantages to less developed countries so as to permit the rapid expansion of their markets. In view of the great need for this rapid development, industrialized countries should also study ways in which to modify, wherever possible, international commitments which prevent the achievement of this objective.

C. Producing member countries should formulate their plans for production and exports, taking account of their effect on world markets and of the necessity of supporting and improving the effectiveness of international stabilization programs and mechanisms. Similarly they should try to avoid increasing the uneconomic production of goods which can be obtained under better conditions in the less developed countries of the Continent, in which the production of these goods is an important source of employment.

D. Member countries should adopt all necessary measures to direct technological studies toward finding new uses and by-products of those primary commodities that are most important to their economies.

E. Member countries should try to reduce, and, if possible, eliminate within a reasonable time export subsidies and other measures which cause instability in the markets for basic commodities and excessive fluctuations in prices and income.

CHAPTER II. INTERNATIONAL COOPERATION MEASURES

1. Member countries should make coordinated, and if possible, joint efforts designed:

a. To eliminate as soon as possible undue protection of the production of basic products;

b. To eliminate taxes and reduce excessive domestic prices which discourage the consumption of imported basic products;

c. To seek to end preferential agreements and other measures which limit world consumption of Latin American basic products and their access to international markets, especially the markets of Western European countries in process of eco-

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nomic integration, and of countries with centrally planned economies; and

d. To adopt the necessary consultation mechanisms so that their marketing policies will not have damaging effects on the stability of the markets for basic commodities.

2. Industrialized countries should give maximum cooperation to less developed countries so that their raw material exports will have the greatest degree of processing that is economic.

3. Through their representation in international financial organizations, member countries should suggest that these organizations, when considering loans for the promotion of production for export, take into account the effect of such loans on products which are in surplus in world markets.

4. Member countries should support the efforts being made by international commodity study groups and by the Commission on International Commodity Trade of the United Nations. In this connection, it should be considered that producing and consuming nations bear a joint responsibility for taking national and international steps to reduce market instability.

5. The Secretary General of the Organization of American States shall convene a group of experts appointed by their respective Governments to meet before November 30, 1961 and to report, not later than March 31, 1962 on measures to provide an adequate and effective means of offsetting the effects of fluctuations in the volume and prices of exports of basic products. The experts shall:

a. Consider the questions regarding compensatory financing raised during the present meeting;

b. Analyze the proposal for establishing an international fund for the stabilization of export receipts contained in the Report of the Group of Experts to the Special Meeting of the Inter-American Economic and Social Council, as well as any other alternative proposals;

c. Prepare a draft plan for the creation of mechanisms for compensatory financing. This draft plan should be circulated among the member Governments and their opinions obtained well in advance of the next meeting of the Commission on International Commodity Trade.

6. Member countries should support the efforts under way to improve and strengthen international commodity agreements and should be prepared to cooperate in the solution of specific commodity problems. Further more, they should endeavor to adopt adequate solutions for the short- and long-term problems affecting markets for such commodities so that the economic interests of producers and consumers are equally safeguarded.

7. Members countries should request other producer and consumer countries to cooperate in stabilization programs, bearing in mind that the raw materials of the Western Hemisphere are also produced and consumed in other parts of the world.

8. Member countries recognize that the disposal of accumulated reserves and surpluses can be a means of achieving the goals outlined in the first chapter of this Title, provided that, along with the generation of local resources, the consumption of essential products in the receiving countries is immediately increased. The disposal of

surpluses and reserves should be carried out in an orderly manner, in order to:

a. Avoid disturbing existing commercial markets in member countries; and

b. Encourage expansion of the sale of their products to other markets.

However, it is recognized that:

a. The disposal of surpluses should not displace commercial sales of identical products trditionally carried out by other countries; and

b. Such disposal cannot substitute for large scale financial and technical assistance programs.

In Witness Whereof this Charter is signed, in Punta del Este, Uruguay, on the seventeenth day of August, nineteen hundred sixty-one.

The original texts shall be deposited in the archives of the Pan American Union, through the Secretary General of the Special Meeting, in order that certified copies may be sent to the Governments of the Member States of the Organization of American States.

3. North Atlantic Treaty

a. North Atlantic Treaty [1] (amended)

Signed at Washington, April 4, 1949; Ratification Advised by the Senate July 21, 1949; Ratified by the President July 25, 1949; Proclaimed by the President and Entered Into Force August 24, 1949 as amended February 17, 1952 [2] and May 5, 1955 [3]

The Parties to this Treaty [1] reaffirm their faith in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all governments.

They are determined to safeguard the freedom, common heritage and civilization of their peoples, founded on the principles of democracy, individual liberty and the rule of law.

They seek to promote stability and well-being in the North Atlantic area.

They are resolved to unite their efforts for collective defense and for the preservation of peace and security.

They therefore agree to this North Atlantic Treaty:

ARTICLE 1

The Parties undertake, as set forth in the Charter of the United Nations, to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security, and justice, are not endangered, and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations.

ARTICLE 2

The Parties will contribute toward the further development of peaceful and friendly international relations by strengthening their free institutions, by bringing about a better understanding of the principles upon which these institutions are founded, and by promoting conditions of stability and well-being. They will seek to eliminate conflict in their international economic policies and will encourage economic collaboration between any or all of them.

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[1] 63 Stat. 2241; TIAS 1964; 4 Bevans 828; 34 UNTS 243. For a list of states which are parties to the Treaty, see Department of State publication, *Treaties in Force.*

[2] 3 UST 43; TIAS 2390; 126 UNTS 350. Protocol to the North Atlantic Treaty on the accession of Greece and Turkey which was done at London October 17, 1951; ratification advised by the Senate of the United States of America February 7, 1952; ratified by the President of the United States of America February 11, 1952; proclaimed by the President of the United States of America March 4, 1952; entered into force February 15, 1952.

[3] 6 UST 5707; TIAS 3428; 243 UNTS 308. Protocol to the North Atlantic Treaty on the accession of the Federal Republic of Germany. Signed at Paris October 23, 1954; entered into force for the United States May 5, 1955.

ARTICLE 3

In order more effectively to achieve the objectives of this Treaty, the Parties, separately and jointly, by means of continuous and effective self-help and mutual aid, will maintain and develop their individual and collective capacity to resist armed attack.

ARTICLE 4

The Parties will consult together whenever, in the opinion of any of them, the territorial integrity, political independence or security of any of the Parties is threatened.

ARTICLE 5

The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all; and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area.

Any such armed attack and all measures taken as a result thereof shall immediately be reported to the Security Council. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

ARTICLE 6 [4]

For the purpose of Article 5, an armed attack on one or more of the Parties is deemed to include an armed attack—

(i) on the territory of any of the Parties in Europe or North America, on the Algerian Departments of France, on the territory of Turkey or the islands under the jurisdiction of any of the Parties in the North Atlantic area north of the Tropic of Cancer;

(ii) on the forces, vessels or aircraft of any of the Parties, when in or over these territories or any other area in Europe in which occupation forces of any of the Parties were stationed on the date when the Treaty entered into force or the Mediterranean Sea or the North Atlantic area north of the Tropic of Cancer.

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[4] As modified by the Protocol of the Accession of Greece and Turkey, which entered into force February 17, 1952. The Article originally read as follows:

"ARTICLE 6

"For the purpose of Article 5 an armed attack on one or more of the Parties is deemed to include an armed attack on the territory of any of the Parties in Europe or North America, on the Algerian Departments of France, on the occupation forces of any Party in Europe, on the islands under the jurisdiction of any Party in the North Atlantic area north of the Tropic of Cancer or on the vessels or aircraft in this area of any of the Parties."

ARTICLE 7

The Treaty does not affect, and shall not be interpreted as affecting in any way the rights and obligations under the Charter of the Parties which are members of the United Nations, or the primary responsibility of the Security Council for the maintenance of international peace and security.

ARTICLE 8

Each Party declares that none of the international engagements now in force between it and any other of the Parties or any third state is in conflict with the provisions of this Treaty, and undertakes not to enter into any international engagements in conflict with this Treaty.

ARTICLE 9

The Parties hereby establish a council, on which each of them shall be represented, to consider matters concerning the implementation of this Treaty. The council shall be so organized as to be able to meet promptly at any time. The council shall set up such subsidiary bodies as may be necessary; in particular it shall establish immediately a defense committee which shall recommend measures for the implementation of Articles 3 and 5.

ARTICLE 10

The Parties may, by unanimous agreement, invite any other European state in a position to further the principles of this Treaty and to contribute to the security of the North Atlantic area to accede to this Treaty. Any state so invited may become a party to the Treaty by depositing its instrument of accession with the Government of the United States of America. The Government of the United States of America will inform each of the Parties of the deposit of each such instrument of accession.

ARTICLE 11

This Treaty shall be ratified and its provisions carried out by the Parties in accordance with their respective constitutional processes. The instruments of ratification shall be deposited as soon as possible with the Government of the United States of America, which will notify all the other signatories of each deposit. The Treaty shall enter into force between the states which have ratified it as soon as the ratification of the majority of the signatories, including the ratifications of Belgium, Canada, France, Luxembourg, the Netherlands, the United Kingdom and the United States, have been deposited and shall come into effect with respect to other states on the date of deposit of their ratifications.

ARTICLE 12

After the Treaty has been in force for ten years, or at any time thereafter, the Parties shall, if any of them so requests, consult together for the purpose of reviewing the Treaty, having regard for the factors then affecting peace and security in the North Atlantic area, including the development of universal as well as regional arrangements under the Charter of the United Nations for the maintenance of international peace and security.

ARTICLE 13

After the Treaty has been in force for twenty years, any Party may cease to be a party one year after its notice of denunciation has been given to the Government of the United States of America, which will inform the Governments of the other Parties of the deposit of each notice of denunciation.

ARTICLE 14

This Treaty, of which the English and French texts are equally authentic, shall be deposited in the Archives of the Government of the United States of America. Duly certified copies thereof will be transmitted by that Government to the Governments of the other signatories.

b. Protocol to the North Atlantic Treaty on the Accession of Spain

Signed at Brussels, December 10, 1981; Ratification advised by Senate, March 16, 1982; entered into force for the United States, May 29, 1982

The Parties of the North Atlantic Treaty, signed at Washington on April 4, 1949,

Being satisfied that the security of the North Atlantic area will be enhanced by the accession of the Kingdom of Spain to that Treaty,

Agree as follows:

ARTICLE I

Upon the entry into force of this Protocol, the Secretary General of the North Atlantic Treaty Organization shall, on behalf of all the Parties, communicate to the Government of the Kingdom of Spain an invitation to accede to the North Atlantic Treaty. In accordance with article 10 of the Treaty, the Kingdom of Spain shall become a Party on the date when it deposits its instrument of accession with the Government of the United States of America.

ARTICLE II

The present Protocol shall enter into force when each of the Parties to the North Atlantic Treaty has notified the Government of the United States of America of its acceptance thereof. The Government of the United States of America shall inform all the Parties to the North Atlantic Treaty of the date of receipt of each such notification and of the date of the entry into force of the present Protocol.

ARTICLE III

The present Protocol, of which the English and French texts are equally authentic, shall be deposited in the Archives of the Government of the United States of America. Duly certified copies thereof shall be transmitted by that Government to the Governments of all the Parties to the North Atlantic Treaty.

In witness whereof, the undersigned plenipotentiaries have signed the present Protocol.

4. Mutual Defense Treaty Between the United States of America and the Republic of the Philippines[1]

Signed at Washington August 30, 1951; Ratification advised by the Senate of the United States of America March 20, 1952; Ratified by the President of the United States of America April 15, 1952; Ratified by the Republic of the Philippines August 27, 1952; Ratifications exchanged at Manila August 27, 1952; Proclaimed by the President of the United States of America September 15, 1952; Entered into force August 27, 1952

The Parties to this Treaty,

Reaffirming their faith in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all Governments, and desiring to strengthen the fabric of peace in the Pacific Area,

Recalling with mutual pride the historic relationship which brought their two peoples together in a common bond of sympathy and mutual ideals to fight side-by-side against imperialist aggression during the last war,

Desiring to declare publicly and formally their sense of unity and their common determination to defend themselves against external armed attack, so that no potential aggressor could be under the illusion that either of them stands alone in the Pacific Area,

Desiring further to strengthen their present efforts for collective defense for the preservation of peace and security pending the development of a more comprehensive system of regional security in the Pacific Area,

Agreeing that nothing in this present instrument shall be considered or interpreted as in any way or sense altering or diminishing any existing agreements or understandings between the United States of America and the Republic of the Philippines,

Have agreed as follows:

ARTICLE I

The Parties undertake, as set forth in the Charter of the United Nations, to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations.

ARTICLE II

In order more effectively to achieve the objective of this Treaty, the Parties separately and jointly by self-help and mutual aid will maintain and develop their individual and collective capacity to resist armed attack.

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[1] 3 UST 3947; TIAS 2529, 177 UNTS 133

ARTICLE III

The Parties, through their Foreign Ministers or their deputies, will consult together from time to time regarding the implementation of this Treaty and whenever in the opinion of either of them the territorial integrity, pollitical independence or security of either of the Parties is threatened by external armed attack in the Pacific.

ARTICLE IV

Each Party recognizes that an armed attack in the Pacific Area on either of the Parties would be dangerous to its own peace and safety and declares that it would act to meet the common dangers in accordance with its constitutional processes.

Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

ARTICLE V

For the purpose of Article IV, an armed attack on either of the Parties is deemed to include an armed attack on the metropolitan territory of either of the Parties, or on the island territories under its jurisdiction in the Pacific or on its armed forces, public vessels or aircraft in the Pacific.

ARTICLE VI

This Treaty does not affect and shall not be interpreted as affecting in any way the rights and obligations of the Parties under the Charter of the United Nations or the responsibility of the United Nations for the maintenance of international peace and security.

ARTICLE VII

This Treaty shall be ratified by the United States of America and the Republic of the Philippines in accordance with their respective constitutional processes and will come into force when instruments of ratification thereof have been exchanged by them at Manila.

ARTICLE VIII

This Treaty shall remain in force indefinitely. Either Party may terminate it one year after notice has been given to the other Party.

5. Security Treaty Between Australia, New Zealand, and the United States of America[1]

Signed at San Francisco September 1, 1951; Ratification advised by the Senate of the United States of America March 20, 1952; Ratified by the President of the United States of America April 15, 1952; Ratification of the United States of America deposited with the Government of Australia at Canberra April 29, 1952; Proclaimed by the President of the United States of America May 9, 1952; Entered into force April 29, 1952

Ratified by Australia, New Zealand, and the United States of America

The Parties to this Treaty,

Reaffirming their faith in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all Governments, and desiring to strengthen the fabric of peace in the Pacific Area,

Noting that the United States already has arrangements pursuant to which its armed forces are stationed in the Philippines, and has armed forces and administrative responsibilities in the Ryukyus, and upon the coming into force of the Japanese Peace Treaty may also station armed forces in and about Japan to assist in the preservation of peace and security in the Japan Area,

Recognizing that Australia and New Zealand as members of the British Commonwealth of Nations have military obligations outside as well as within the Pacific Area,

Desiring to declare publicly and formally their sense of unity, so that no potential aggressor could be under the illusion that any of them stand alone in the Pacific Area, and

Desiring further to coordinate their efforts for collective defense for the preservation of peace and security pending the development of a more comprehensive system of regional security in the Pacific Area,

Therefore declare and agree as follows:

ARTICLE I

The Parties undertake, as set forth in the Charter of the United Nations, to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations.

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[1] 3 UST 3420; TIAS 2493; 131 UNTS 83.

ARTICLE II

In order more effectively to achieve the objective of this Treaty the Parties separately and jointly by means of continuous and effective self-help and mutual aid will maintain and develop their individual and collective capacity to resist armed attack.

ARTICLE III

The Parties will consult together whenever in the opinion of any of them the territorial integrity, political independence or security of any of the Parties is threatened in the Pacific.

ARTICLE IV

Each Party recognizes that an armed attack in the Pacific Area on any of the Parties would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes.

Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

ARTICLE V

For the purpose of Article IV, an armed attack on any of the Parties is deemed to include an armed attack on the metropolitan territory of any of the Parties, or on the island territories under its jurisdiction in the Pacific or on its armed forces, public vessels or aircraft in the Pacific.

ARTICLE VI

This Treaty does not affect and shall not be interpreted as affecting in any way the rights and obligations of the Parties under the Charter of the United Nations or the responsibility of the United Nations for the maintenance of international peace and security.

ARTICLE VII

The Parties hereby establish a Council, consisting of their Foreign Ministers or their Deputies, to consider matters concerning the implementation of this Treaty. The Council should be so organized as to be able to meet at any time.

ARTICLE VIII

Pending the development of a more comprehensive system of regional security in the Pacific Area and the development by the United Nations of more effective means to maintain international peace and security, the Council, established by Article VII, is authorized to maintain a consultative relationship with States, Regional Organizations, Associations of States or other authorities in the Pacific Area in a position to further the purposes of this Treaty and to contribute to the security of that Area.

ARTICLE IX

This Treaty shall be ratified by the Parties in accordance with their respective constitutional processes. The instruments of ratification shall be deposited as soon as possible with the Government of Australia, which will notify each of the other signatories of such deposit. The Treaty shall enter into force as soon as the ratifications of the signatories have been deposited.

ARTICLE X

This Treaty shall remain in force indefinitely. Any Party may cease to be a member of the Council established by Article VII one year after notice has been given to the Government of Australia, which will inform the Governments of the other Parties of the deposit of such notice.

ARTICLE XI

This Treaty in the English language shall be deposited in the archives of the Government of Australia. Duly certified copies thereof will be transmitted by that Government to the Governments of each of the other signatories.

6. Mutual Defense Treaty Between the United States of America and the Republic of Korea[1] (with understanding)

Signed at Washington October 1, 1953; Ratification advised by the Senate of the United States of America, with an understanding, January 26, 1954; Ratified by the President of the United States of America, subject to the said understanding, February 5, 1954; Ratified by the Republic of Korea January 29, 1954; Ratifications exchanged in Washington, November 17, 1954; Proclaimed by the President of the United States of America December 1, 1954; Entered into force November 17, 1954

The Parties to this Treaty,

Reaffirming their desire to live in peace with all peoples and all governments, and desiring to strengthen the fabric of peace in the Pacific area,

Desiring to declare publicly and formally their common determination to defend themselves against external armed attack so that no potential aggressor could be under the illusion that either of them stands alone in the Pacific area,

Desiring further to strengthen their efforts for collective defense for the preservation of peace and security pending the development of a more comprehensive and effective system of regional security in the Pacific area.

Have agreed as follows:

ARTICLE I

The Parties undertake to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered and to refrain in their international relations from the threat or use of force in any manner inconsistent with the Purposes of the United Nations, or obligations assumed by any Party toward the United Nations.

ARTICLE II

The Parties will consult together whenever, in the opinion of either of them, the political independence or security of either of the Parties is threatened by external armed attack. Separately and jointly, by self help and mutual aid, the Parties will maintain and develop appropriate means to deter armed attack and will take suitable measures in consultation and agreement to implement this Treaty and to further its purposes.

ARTICLE III

Each Party recognizes that an armed attack in the Pacific area on either of the Parties in territories now under their respective administrative control, or hereafter recognized by one of the Parties as lawfully brought under the administrative control of the other, would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes.

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[1] 5 UST 2368; TIAS 3097; 238 UNTS 199.

ARTICLE IV

The Republic of Korea grants, and the United States of America accepts, the right to dispose United States land, air and sea forces in and about the territory of the Republic of Korea as determined by mutual agreement.

ARTICLE V

This Treaty shall be ratified by the United States of America and the Republic of Korea in accordance with their respective constitutional processes and will come into force when instruments of ratification thereof have been exchanged by them at Washington.

ARTICLE VI

This Treaty shall remain in force indefinitely. Either Party may terminate it one year after notice has been given to the other Party.

UNDERSTANDING AS STATED IN THE PROCLAMATION

WHEREAS the Senate of the United States of America by their resolution of January 26, 1954, two-thirds of the Senators present concurring therein, did advise and consent to the ratification of the said Treaty with the following understanding:

"It is the understanding of the United States that neither party is obligated, under Article III of the above Treaty, to come to the aid of the other except in case of an external armed attack against such party; nor shall anything in the present Treaty be construed as requiring the United States to give assistance to Korea except in the event of an armed attack against territory which has been recognized by the United States as lawfully brought under the administrative control of the Republic of Korea."

7. Southeast Asia Collective Defense Treaty and Protocol Thereto[1] (with understanding)[2]

Signed at Manila, September 8, 1954; Ratification Advised by the Senate, February 1, 1955; Ratified by the President and Ratification Deposited February 19, 1955; Proclaimed by the President March 2, 1955; and Entered Into Force February 19, 1955

The Parties to this Treaty,

Recognizing the sovereign equality of all the Parties,

Reiterating their faith in the purposes and principles set forth in the Charter of the United Nations and their desire to live in peace with all peoples and all governments,

Reaffirming that, in accordance with the Charter of the United Nations, they uphold the principle of equal rights and self-determination of peoples, and declaring that they will earnestly strive by every peaceful means to promote self-government and to secure the independence of all countries whose peoples desire it and are able to undertake its responsibilities,

Desiring to strengthen the fabric of peace and freedom and to uphold the principles of democracy, individual liberty and the rule of law, and to promote the economic well-being and development of all peoples in the Treaty area,

Intending to declare publicly and formally their sense of unity, so that any potential aggressor will appreciate that the Parties stand together in the area, and

Desiring further to coordinate their efforts for collective defense for the preservation of peace and security,

Therefore agree as follows:

Article I

The Parties undertake, as set forth in the Charter of the United Nations, to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered, and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations.

Article II

In order more effectively to achieve the objectives of this Treaty the Parties, separately and jointly, by means of continuous and effective self-help and mutual aid will maintain and develop their individual and collective capacity to resist armed attack and to prevent and counter subversive activities directed from without against their territorial integrity and political stability.

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[1] 6 UST 81; TIAS 3170. For a list of states which are parties to the Treaty, see Department of State publication, *Treaties in Force*.

[2] For text of understanding, see page 871.

ARTICLE III

The Parties undertake to strengthen their free institutions and to cooperate with one another in the further development of economic measures, including technical assistance, designed both to promote economic progress and social well-being and to further the individual and collective efforts of governments toward these ends.

ARTICLE IV

1. Each Party recognizes that aggression by means of armed attack in the treaty area against any of the Parties or against any State or territory which the Parties by unanimous agreement may hereafter designate, would endanger its own peace and safety, and agrees that it will in that event act to meet the common danger in accordance with its constitutional processes. Measures taken under this paragraph shall be immediately reported to the Security Council of the United Nations.

2. If, in the opinion of any of the Parties, the inviolability or the integrity of the territory or the sovereignty or political independence of any Party in the treaty area or of any other State or Territory to which the provisions of paragraph 1 of this Article from time to time apply is threatened in any way other than by armed attack or is affected or threatened by any fact or situation which might endanger the peace of the area, the Parties shall consult immediately in order to agree on the measures which should be taken for the common defense.

3. It is understood that no action on the territory of any State designated by unanimous agreement under paragraph 1 of this Article or on any territory so designated shall be taken except at the invitation or with the consent of the government concerned.

ARTICLE V

The Parties hereby establish a Council, on which each of them shall be represented, to consider matters concerning the implementation of this Treaty. The Council shall provide for consultation with regard to military and any other planning as the situation obtaining in the treaty area may from time to time require. The Council shall be so organized as to be able to meet at any time.

ARTICLE VI

This Treaty does not affect and shall not be interpreted as affecting in any way the rights and obligations of any of the Parties under the Charter of the United Nations or the responsibility of the United Nations for the maintenance of international peace and security. Each Party declares that none of the international engagements now in force between it and any other of the Parties or any third party is in conflict with the provisions of this Treaty, and undertakes not to enter into any international engagements in conflict with this Treaty.

ARTICLE VII

Any other State in a position to further the objectives of this Treaty and to contribute to the security of the area may, by unanimous agreement of the Parties, be invited to accede to this Treaty. Any State so invited may become a Party to the Treaty by depositing its instrument of accession with the Government of the Republic of the Philippines. The Government of the Republic of the Philippines shall inform each of the Parties of the deposit of each such instrument of accession.

ARTICLE VIII

As used in this Treaty, the "treaty area" is the general area of Southeast Asia, including also the entire territories of the Asian Parties, and the general area of the Southwest Pacific not including the Pacific area north of 21 degrees 30 minutes north latitude. The Parties may, by unanimous agreement, amend this Article to include within the treaty area the territory of any State acceding to this Treaty in accordance with Article VII or otherwise to change the treaty area.

ARTICLE IX

1. This Treaty shall be deposited in the archives of the Government of the Republic of the Philippines. Duly certified copies thereof shall be transmitted by the government to the other signatories.
2. The Treaty shall be ratified and its provisions carried out by the Parties in accordance with their respective constitutional processes. The instruments of ratification shall be deposited as soon as possible with the Government of the Republic of the Philippines, which shall notify all of the other signatories of such deposit.
3. The Treaty shall enter into force between the States which have ratified it as soon as the instruments of ratification of a majority of the signatories shall have been deposited, and shall come into effect with respect to each other State on the date of the deposit of its instrument of ratification.

ARTICLE X

This Treaty shall remain in force indefinitely, but any Party may cease to be a Party one year after its notice of denunciation has been given to the Government of the Republic of the Philippines, which shall inform the Governments of the other Parties of the deposit of each notice of denunciation.

ARTICLE XI

The English text of this Treaty is binding on the Parties, but when the Parties have agreed to the French text thereof and have so notified the Government of the Republic of the Philippines, the French text shall be equally authentic and binding on the Parties.

UNDERSTANDING OF THE UNITED STATES OF AMERICA

The United States of America in executing the present Treaty does so with the understanding that its recognition of the effect of aggression and armed attach and its agreement with reference thereto in Article IV, paragraph 1, apply only to communist aggression but affirms that in the event of other aggression or armed attack it will consult under the provisions of Article IV, paragraph 2.

Protocol to the Southeast Asia Collective Defense Treaty

DESIGNATION OF STATES AND TERRITORY AS TO WHICH PROVISIONS OF ARTICLE IV AND ARTICLE III ARE TO BE APPLICABLE

The Parties to the Southeast Asia Collective Defense Treaty unanimously designate for the purposes of Article IV of the Treaty the States of Cambodia and Laos and the free territory under the jurisdiction of the State of Vietnam.

The Parties further agree that the above mentioned states and territory shall be eligible in respect of the economic measures contemplated by Article III.

This Protocol shall enter into force simultaneously with the coming into force of the Treaty.

8. Treaty of Mutual Cooperation and Security Between the United States of America and Japan [1]

Signed at Washington January 19, 1960; ratification advised by the Senate of the United States of America June 22, 1960; Ratified by the President of the United States of America June 22, 1960; Ratified by Japan June 21, 1960; Ratifications exchanged at Tokyo June 23, 1960; Proclaimed by the President of the United States of America June 27, 1960; Entered into force June 23, 1960. With Agreed Minute and Exchanges of Notes

The United States of America and Japan,

Desiring to strengthen the bonds of peace and friendship traditionally existing between them, and to uphold the principles of democracy, individual liberty, and the rule of law.

Desiring further to encourage closer economic cooperation between them and to promote conditions of economic stability and well-being in their countries.

Reaffirming their faith in the purposes and principles of the Charter of the United Nations, and their desire to live in peace with all peoples and all governments,

Recognizing that they have the inherent right of individual or collective self-defense as affirmed in the Charter of the United Nations,

Considering that they have a common concern in the maintenance of international peace and security in the Far East,

Having resolved to conclude a treaty of mutual cooperation and security,

Therefore agree as follows:

ARTICLE I

The Parties undertake, as set forth in the Charter of the United Nations, to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered and to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations.

The Parties will endeavor in concert with other peace-loving countries to strengthen the United Nations so that its mission of maintaining international peace and security may be discharged more effectively.

ARTICLE II

The Parties will contribute toward the further development of peaceful and friendly international relations by strengthening their free institutions, by bringing about a better understanding of the principles upon which these institutions are founded, and by promoting conditions of stability and well-being. They will seek to eliminate conflict in their international economic policies and will encourage economic collaboration between them.

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[1] 11 UST 1632; TIAS 4509; 373 UNTS 186.

ARTICLE III

The Parties, individually and in cooperation with each other, by means of continuous and effective self-help and mutual aid will maintain and develop, subject to their constitutional provisions, their capacities to resist armed attack.

ARTICLE IV

The Parties will consult together from time to time regarding the implementation of this Treaty, and, at the request of either Party, whenever the security of Japan or international peace and security in the Far East is threatened.

ARTICLE V

Each Party recognizes that an armed attack against either Party in the territories under the administration of Japan would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional provisions and processes.

Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations in accordance with the provisions of Article 51 of the Charter. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

ARTICLE VI

For the purpose of contributing to the security of Japan and the maintenance of international peace and security in the Far East, the United States of America is granted the use by its land, air and naval forces of facilities and areas in Japan.

The use of these facilities and areas as well as the status of United States armed forces in Japan shall be governed by a separate agreement,[2] replacing the Administrative Agreement[3] under Article III of the Security Treaty[4] between the United States of America and Japan, signed at Tokyo on February 28, 1952, as amended, and by such other arrangements as may be agreed upon.

ARTICLE VII

This Treaty does not affect and shall not be interpreted as affecting in any way the rights and obligations of the Parties under the Charter of the United Nations or the responsibility of the United Nations for the maintenance of international peace and security.

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[2] TIAS 4510; 11 UST 1652.
[3] TIAS 2492; 3 UST, pt. 3.
[4] TIAS 2491; 3 UST, pt. 3.

Article VIII

This Treaty shall be ratified by the United States of America and Japan in accordance with their respective constitutional processes and will enter into force on the date on which the instruments of ratification thereof have been exchanged by them in Tokyo.

Article IX

The Security Treaty between the United States of America and Japan signed at the city of San Francisco on September 8, 1951 shall expire upon the entering Mr. into force of this Treaty.

Article X

This Treaty shall remain in force until in the opinion of the Governments of the United States of America and Japan there shall have come into force such United Nations arrangements as will satisfactorily provide for the maintenance of international peace and security in the Japan area.

However, after the Treaty has been in force for ten years, either Party may give notice to the other Party of its intention to terminate the Treaty, in which case the Treaty shall terminate one year after such notice has been given.

Agreed Minute to the Treaty of Mutual Cooperation and Security Between the United States of America and Japan

Japanese Plenipotentiary:

While the question of the status of the islands administered by the United States under Article 3 of the Treaty of Peace with Japan has not been made a subject of discussion in the course of treaty negotiations, I would like to emphasize the strong concern of the Government and people of Japan for the safety of the people of these islands since Japan possesses residual sovereignty over these islands. If an armed attack occurs or is threatened against these islands, the two countries will of course consult together closely under Article IV of the Treaty of Mutual Cooperation and Security. In the event of an armed attack, it is the intention of the Government of Japan to explore with the United States measures which it might be able to take for the welfare of the islanders.

United States Plenipotentiary:

In the event of an armed attack against these islands, the United States Government will consult at once with the Government of Japan and intends to take the necessary measures for the defense of these islands, and to do its utmost to secure the welfare of the islanders.

Exchanges of Notes Between the United States and Japan Dated January 19, 1960

Excellency:

I have the honour to refer to the Treaty of Mutual Cooperation and Security between Japan and the United States of America signed today, and to inform Your Excellency that the following is the understanding of the Government of Japan concerning the implementation of Article VI thereof:

> Major changes in the deployment into Japan of United States armed forces, major changes in their equipment, and the use of facilities and areas in Japan as bases for military combat operations to be undertaken from Japan other than those conducted under Article V of the said Treaty, shall be the subjects of prior consultation with the Government of Japan.

I should be appreciative if Your Excellency would confirm on behalf of your Government that this is also the understanding of the Government of the United States of America.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

NOBUSUKE KISHI.

His Excellency
CHRISTIAN A. HERTER,
Secretary of State
of the United States of America.

EXCELLENCY:

I have the honor to acknowledge the receipt of Your Excellency's Note of today's date, which reads as follows:

> "I have the honour to refer to the Treaty of Mutual Cooperation and Security between Japan and the United States of America signed today, and to inform Your Excellency that the following is the understanding of the Government of Japan concerning the implementation of Article VI thereof:
>
> > Major changes in the deployment into Japan of United States armed forces, major changes in their equipment, and the use of facilities and areas in Japan as bases for military combat operations to be undertaken from Japan other than those conducted under Article V of the said Treaty, shall be the subjects of prior consultation with the Government of Japan.
>
> "I should be appreciative if Your Excellency would confirm on behalf of your Government that this is also the understanding of the Government of the United States of America.
>
> "I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration."

I have the honor to confirm on behalf of my Government that the foregoing is also the understanding of the Government of the United States of America.

Accept, Excellency, the renewed assurances of my highest consideration.

CHRISTIAN A. HERTER,
Secretary of State of the
United States of America.

His Excellency
NOBUSUKE KISHI,
Prime Minister of Japan.

EXCELLENCY:

I have the honor to refer to the Security Treaty between the United States of America and Japan signed at the city of San Francisco on September 8, 1951, the exchange of notes effected on the same date between Mr. Shigeru Yoshida, Prime Minister of Japan, and Mr. Dean Acheson, Secretary of State of the United States of America, and the Agreement Regarding the Status of the United Nations Forces in Japan signed at Tokyo on February 19, 1954, as well as the Treaty of Mutual Cooperation and Security between the United States of America and Japan signed today. It is the understanding of my Government that:

> 1. The above-mentioned exchange of notes will continue to be in force so long as the Agreement Regarding the Status of the United Nations Forces in Japan remains in force.
>
> The expression "those facilities and areas the use of which is provided to the United States of America under the Security Treaty between Japan and the United States of America" in Article V, paragraph 2 of the above-mentioned Agreement is understood to mean the facilities and areas the use of which is granted to the United States of America under the Treaty of Mutual Cooperation and Security.
>
> 3. The use of the facilities and areas by the United States armed forces under the Unified Command of the United Nations established pursuant to the Security Council Resolution of July 7, 1950, and their status in Japan are governed by arrangements made pursuant to the Treaty of Mutual Cooperation and Security.

I should be grateful if Your Excellency would confirm on behalf of your Government that the understanding of my Government stated in the foregoing numbered paragraphs is also the understanding of your Government and that this understanding shall enter into operation on the date of the entry into force of the Treaty of Mutual Cooperation and Security signed at Washington on January 19, 1960.

Accept, Excellency, the renewed assurances of my highest consideration.

CHRISTIAN A. HERTER,
Secretary of State of the
United States of America.

His Excellency
NOBUSUKE KISHI,
Prime Minister of Japan.

EXCELLENCY:

I have the honour to acknowledge the receipt of Your Excellency's Note of today's date, which reads as follows:

> I have the honor to refer to the Security Treaty between the United States of America and Japan signed at the city of San Francisco on September 8, 1951, the exchange of notes effected on the same date between Mr. Shigeru Yoshida, Prime Minister of Japan, and Mr. Dean Acheson, Secretary of State of the United States of America and the Agreement Regarding the

Status of the United Nations Forces in Japan signed at Tokyo on February 19, 1954, as well as the Treaty of Mutual Cooperation and Security between the United States of America and Japan signed today. It is the understanding of my Government that:

1. The above-mentioned exchange of notes will continue to be in force so long as the Agreement Regarding the Status of the United Nations Forces in Japan remains in force.

2. The expression "those facilities and areas the use of which is provided to the United States of America under the Security Treaty between Japan and the United States of America" in Article V, paragraph 2 of the above-mentioned Agreement is understood to mean the facilities and the areas the use of which is granted to the United States of America under the Treaty of Mutual Cooperation and Security.

3. The use of the facilities and areas by the United States armed forces under the Unified Command of the United Nations established pursuant to the Security Council Resolution of July 7, 1950, and their status in Japan are governed by arrangements made pursuant to the Treaty of Mutual Cooperation and Security.

"I should be grateful if Your Excellency could confirm on behalf of your Government that the understanding of my Government stated in the foregoing numbered paragraphs is also the understanding of your Government and that this understanding shall enter into operation on the date of the entry into force of the Treaty of Mutual Cooperation and Security signed at Washington on January 19, 1960."

I have the honour to confirm on behalf of my Government that the foregoing is also the understanding of the Government of Japan.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

NOBUSUKE KISHI.

His Excellency
CHRISTIAN A. HERTER,
Secretary of State
of the United States of America.

DEAR SECRETARY HERTER:

I wish to refer to the Treaty of Mutual Cooperation and Security between Japan and the United States of America signed today. Under Article IV of the Treaty, the two Governments will consult together from time to time regarding the implementation of the Treaty, and, at the request of either Government, whenever the security of Japan or international peace and security in the Far East is threatened. The exchange of notes under Article VI of the Treaty specifies certain matters as the subjects of prior consultation with the Government of Japan.

Such consultations will be carried on between the two Governments through appropriate channels. At the same time, however, I feel that the establishment of a special committee which could as appropriate be used for these consultations between the Governments would prove very useful. This committee, which would meet whenever requested by either side, could also consider any matters underlying and related to security affairs which would serve to promote understanding between the two Governments and contribute to the strengthening of cooperative relations between the two countries in the field of security.

Under this proposal the present "Japanese-American Committee on Security" established by the Governments of the United States and Japan on August 6, 1957, would be replaced by this new committee which might be called "The Security Consultative Committee". I would also recommend that the membership of this new committee be the same as the membership of the "Japanese-American Committee on Security", namely on the Japanese side, the Minister for Foreign Affairs, who will preside on the Japanese side, and the Director General of the Defense Agency, and on the United States side, the United States Ambassador to Japan, who will serve as Chairman on the United States side, and the Commander-in-Chief, Pacific, who will be the Ambassador's principal advisor on military and defense matters. The Commander, United States Forces, Japan, will serve as alternate for the Commander-in-Chief, Pacific.

I would appreciate very much your views on this matter.

Most sincerely,

NOBUSUKE KISHI.

His Excellency
CHRISTIAN A. HERTER,
Secretary of State
of the United States of America.

DEAR MR. PRIME MINISTER:

The receipt is acknowledged of your Note of today's date suggesting the establishment of "The Security Consultative Committee". I fully agree to your proposal and share your view that such a committee can contribute to strengthening the cooperative relations between the two countries in the field of security. I also agree to your proposal regarding the membership of this committee.

Most sincerely,

CHRISTIAN A. HERTER.

His Excellency
NOBUSUKE KISHI,
Prime Minister of Japan.

9. Middle East Resolutions and Related Material

a. Security Council Resolution 242 (1967)[1]

"*The Security Council,*

"Expressing its continuing concern with the grave situation in the Middle East,

"*Emphasizing* the inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in which every State in the area can live in security,

"*Emphasizing further* that all Member States in their acceptance of the Charter of the United Nations have undertaken a commitment to act in accordance with Article 2 of the Charter,

"1. *Affirms* that the fulfillment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:

> "(i) Withdrawal of Israel armed forces from territories occupied in the recent conflict;
>
> "(ii) Termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force;

"2. *Affirms further* the necessity

"(a) For guaranteeing freedom of navigation through international waterways in the area;

"(*b*) For achieving a just settlement of the refugee problem;

"(*c*) For guaranteeing the territorial inviolability and political independence of every State in the area, through measures including the establishment of demilitarized zones;

"3. *Requests* the Secretary-General to designate a special representative to proceed to the Middle East to establish and maintain contacts with the States concerned in order to promote agreement and assist efforts to achieve a peaceful and accepted settlement in accordance with the provisions and principles in this resolution;

"4. *Requests* the Secretary-General to report to the Security Council on the progress of the efforts of the special representative as soon as possible."

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[1] Resolution 242 (1967), as proposed by United Kingdom, S/8247, adoped unanimously by Council on 22 November 1967, meeting 1382.

Reports of Secretary-General:

S/8259. Note by Secretary-General dated 23 November 1967.

S/8309 and Add. 1. Report by Secretary-General on progress of efforts of Special Representative to Middle East, dated 22 December 1967 and 17 January 1968.

b. Security Council Resolution 338 (1973)[1]

The Security Council

1. *Calls upon* all parties to the present fighting to cease all firing and terminate all military activity immediately, no later than 12 hours after the moment of the adoption of this decision, in the positions they now occupy;

2. *Calls upon* the parties concerned to start immediately after the cease-fire the implementation of Security Council resolution 242 (1967) in all of its parts;

3. *Decides* that, immediately and concurrently with the cease-fire, negotiations start between the parties concerned under appropriate auspices aimed at establishing a just and durable peace in the Middle East.

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[1] Adopted on October 22, 1973, by a vote of 14 to 0 (China did not participate in the voting.).

c. United States Proposal for the Early Warning System in Sinai [1]

PROPOSAL SUBMITTED BY THE PRESIDENT OF THE UNITED STATES TO THE GOVERNMENT OF THE ARAB REPUBLIC OF EGYPT AND THE GOVERNMENT OF ISRAEL ON SEPTEMBER 1, 1975

PROPOSAL

In connection with the Early Warning System referred to in Article IV of the Agreement between Egypt and Israel concluded on this date and as an integral part of that Agreement (hereafter referred to as the Basic Agreement), the United States proposes the following:

1. The Early Warning System to be established in accordance with Article IV in the area shown on the map attached to the Basic Agreement will be entrusted to the United States. It shall have the following elements:

a. There shall be two surveillance stations to provide strategic early warning, one operated by Egyptian and one operated by Israeli personnel. Their locations are shown on the map attached to the Basic Agreement. Each station shall be manned by not more than 250 technical and administrative personnel. They shall perform the functions of visual and electronic surveillance only within their stations.

b. In support of these stations, to provide tactical early warning and to verify access to them, three watch stations shall be established by the United States in the Mitla and Giddi Passes as will be shown on the map attached to the Basic Agreement. These stations shall be operated by United States civilian personnel. In support of these stations, there shall be established three unmanned electronic sensor fields at both ends of each Pass and in the general vicinity of each station and the roads leading to and from those stations.

2. The United States civilian personnel shall perform the following duties in connection with the operation and maintenance of these stations:

a. At the two surveillance stations described in paragraph 1a. above, United States civilian personnel will verify the nature of the operations of the stations and all movement in and out of each station and will immediately report any detected divergency from its authorized role of visual and electronic surveillance to the Parties to the Basic Agreement and to the United Nations Emergency Force.

b. At each watch station described in paragraph 1b. above, the United States civilian personnel will immediately report to the

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[1] Legislation authorizing the President to implement this proposal was enacted as Public Law 94-110 (89 Stat. 572). See vol. II, sec. K for text.

Parties to the Basic Agreement and to the United Nations Emergency Force any movement of armed forces, other than the United Nations Emergency Force, into either Pass and any observed preparations for such movement.

c. The total number of United States civilian personnel assigned to functions under this Proposal shall not exceed 200. Only civilian personnel shall be assigned to functions under this Proposal.

3. No arms shall be maintained at the stations and other facilities covered by this Proposal, except for small arms required for their protection.

4. The United States personnel serving the Early Warning System shall be allowed to move freely within the area of the System.

5. The United States and its personnel shall be entitled to have such support facilities as are reasonably necessary to perform their functions.

6. The United States personnel shall be immune from local criminal, civil, tax and customs jurisdiction and may be accorded any other specific privileges and immunities provided for in the United Nations Emergency Force Agreement of February 13, 1957.

7. The United States affirms that it will continue to perform the functions described above for the duration of the Basic Agreement.

8. Notwithstanding any other provision of this Proposal, the United States may withdraw its personnel only if it concludes that their safety is jeopardized or that continuation of their role is no longer necessary. In the latter case the Parties to the Basic Agreement will be informed in advance in order to give them the opportunity to make alternative arrangements. If both Parties to the Basic Agreement request the United States to conclude its role under this Proposal, the United States will consider such requests conclusive.

9. Technical problems including the location of the watch stations will be worked out through consultation with the United States.

10. Panama Canal Treaties and Related Material[1]

a. Panama Canal Treaties

Signed at Washington, D.C., September 7, 1977; Ratification advised by the Senate of the United States of America, with amendments, conditions, reservations, and understandings March 16, 1978 with respect to the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, and April 18, 1978 with respect to the Panama Canal Treaty; Ratifications exchanged June 16, 1978, effective April 1, 1979; Entered into force October 1, 1979

(1) Panama Canal Treaty

The United States of America and the Republic of Panama,

Acting in the spirit of the Joint Declaration of April 3, 1964, by the Representatives of the Governments of the United States of America and the Republic of Panama, and of the Joint Statement of Principles of February 7, 1974, initialed by the Secretary of State of the United States of America and the Foreign Minister of the Republic of Panama, and

Acknowledging the Republic of Panama's sovereignty over its territory,

Have decided to terminate the prior Treaties pertaining to the Panama Canal and to conclude a new Treaty to serve as the basis for a new relationship between them and, accordingly, have agreed upon the following:

ARTICLE I.—ABROGATION OF PRIOR TREATIES AND ESTABLISHMENT OF A NEW RELATIONSHIP

1. Upon its entry into force, this Treaty terminates and supersedes:

(a) The Isthmian Canal Convention between the United States of America and the Republic of Panama, signed at Washington, November 18, 1903;

(b) The Treaty of Friendship and Cooperation, signed at Washington, March 2, 1936, and the Treaty of Mutual Understanding and Cooperation and the related Memorandum of Understandings Reached, signed at Panama, January 25, 1955, between the United States of America and the Republic of Panama;

(c) All other treaties, conventions, agreements and exchanges of notes between the United States of America and the Republic of Panama concerning the Panama Canal which were in force prior to the entry into force of this Treaty; and

(d) Provisions concerning the Panama Canal which appear in other treaties, conventions, agreements and exchanges of notes between the United States of America and the Republic of Panama which were in force prior to the entry into force of this Treaty.

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[1] The Panama Canal Act of 1979 (Public Law 96-70), which provides implementing legislation for the Treaty, can be found in vol. II, sec. K.

2. In accordance with the terms of this Treaty and related agreements, the Republic of Panama, as territorial sovereign, grants to the United States of America, for the duration of this Treaty, the rights necessary to regulate the transit of ships through the Panama Canal, and to manage, operate, maintain, improve, protect and defend the Canal. The Republic of Panama guarantees to the United States of America the peaceful use of the land and water areas which it has been granted the rights to use for such purposes pursuant to this Treaty and related agreements.

3. The Republic of Panama shall participate increasingly in the management and protection and defense of the Canal, as provided in this Treaty.

4. In view of the special relationship established by this Treaty, the United States of America and the Republic of Panama shall cooperate to assure the uninterrupted and efficient operation of the Panama Canal.

ARTICLE II.—RATIFICATION, ENTRY INTO FORCE, AND TERMINATION

1. This Treaty shall be subject to ratification in accordance with the constitutional procedures of the two Parties. The instruments of ratification of this Treaty shall be exchanged at Panama at the same time as the instruments of ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, signed this date, are exchanged. This Treaty shall enter into force, simultaneously with the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, six calendar months from the date of the exchange of the instruments of ratification.

2. This Treaty shall terminate at noon, Panama time, December 31, 1999.

ARTICLE III.—CANAL OPERATION AND MANAGEMENT

1. The Republic of Panama, as territorial sovereign, grants to the United States of America the rights to manage, operate, and maintain the Panama Canal, its complementary works, installations and equipment and to provide for the orderly transit of vessels through the Panama Canal. The United States of America accepts the grant of such rights and undertakes to exercise them in accordance with this Treaty and related agreements.

2. In carrying out the foregoing responsibilities, the United States of America may:

(a) Use for the aforementioned purposes, without cost except as provided in this Treaty, the various installations and areas (including the Panama Canal) and waters, described in the Agreement in Implementation of this Article, signed this date, as well as such other areas and installations as are made available to the United States of America under this Treaty and related agreements, and take the measures necessary to ensure sanitation of such areas;

(b) Make such improvements and alterations to the aforesaid installations and areas as it deems appropriate, consistent with the terms of this Treaty;

(c) Make and enforce all rules pertaining to the passage of vessels through the Canal and other rules with respect to navigation and maritime matters, in accordance with the Treaty and related agreements. The Republic of Panama will lend its cooperation, when necessary, in the enforcement of such rules;

(d) Establish, modify, collect and retain tolls for the use of the Panama Canal, and other charges, and establish and modify methods of their assessment;

(e) Regulate relations with employees of the United States Government;

(f) Provide supporting services to facilitate the performance of its responsibilities under this Article;

(g) Issue and enforce regulations for the effective exercise of the rights and responsibilities of the United States of America under this Treaty and related agreements. The Republic of Panama will lend its cooperation, when necessary, in the enforcement of such rules; and

(h) Exercise any other right granted under this Treaty, or otherwise agreed upon between the two Parties.

3. Pursuant to the foregoing grant of rights, the United States of America shall, in accordance with the terms of this Treaty and the provisions of United States law, carry out its responsibilities by means of a United States Governmment agency called the Panama Canal Commission, which shall be constituted by and in conformity with the laws of the United States of America.

(a) The Panama Canal Commission shall be supervised by a Board composed of nine members, five of whom shall be nationals of the United States of America, and four of whom shall be Panamanian nationals proposed by the Republic of Panama for appointment to such positions by the United States of America in a timely manner.

(b) Should the Republic of Panama request the United States of America to remove a Panamanian national from membership on the Board, the United States of America shall agree to such request. In that event, the Republic of Panama shall propose another Panamanian national for appointment by the United States of America to such position in a timely manner. In case of removal of a Panamanian member of the Board at the initiative of the United States of America, both Parties will consult in advance in order to reach agreement concerning such removal, and the Republic of Panama shall propose another Panamanian national for appointment by the United States of America in his stead.

(c) The United States of America shall employ a national of the United States of America as Administrator of the Panama Canal Commission, and a Panamanian national as Deputy Administrator, through December 31, 1989. Beginning January 1, 1990, a Panamanian national shall be employed as the Administrator and a national of the United States of America shall occupy the position of Deputy Administrator. Such Panamanian nationals shall be proposed to the United States of America by the Republic of Panama for appointment to such positions by the United States of America.

(d) Should the United States of America remove the Panamanian national from his position as Deputy Administrator, or Administrator, the Republic of Panama shall propose another Panamanian national for appointment to such position by the United States of America.

4. An illustrative description of the activities the Panama Canal Commission will perform in carrying out the responsibilities and rights of the United States of America under this Article is set forth at the Annex. Also set forth in the Annex are procedures for the discontinuance or transfer of those activities performed prior to the entry into force of this Treaty by the Panama Canal Company or the Canal Zone Government which are not to be carried out by the Panama Canal Commission.

5. The Panama Canal Commission shall reimburse the Republic of Panama for the costs incurred by the Republic of Panama in providing the following public services in the Canal operating areas and in housing areas set forth in the Agreement in Implementation of Article III of this Treaty and occupied by both United States and Panamanian citizen employees of the Panama Canal Commission: police, fire protection, street maintenance, street lighting, street cleaning, traffic management and garbage collection. The Panama Canal Commission shall pay the Republic of Panama the sum of ten million United States dollars ($10,000,000) per annum for the foregoing services. It is agreed that every three years from the date that this Treaty enters into force, the costs involved in furnishing said services shall be reexamined to determine whether adjustment of the annual payment should be made because of inflation and other relevant factors affecting the cost of such services.

6. The Republic of Panama shall be responsible for providing, in all areas comprising the former Canal Zone, services of a general jurisdictional nature such as customs and immigration, postal services, courts and licensing, in accordance with this Treaty and related agreements.

7. The United States of America and the Republic of Panama shall establish a Panama Canal Consultative Committee, composed of an equal number of high-level representatives of the United States of America and the Republic of Panama, and which may appoint such subcommittees as it may deem appropriate. This Committee shall advise the United States of America and the Republic of Panama on matters of policy affecting the Canal's operation. In view of both Parties' special interest in the continuity and efficiency of the Canal operation in the future, the Committee shall advise on matters such as general tolls policy, employment and training policies to increase the participation of Panamanian nationals in the operation of the Canal, and international policies on matters concerning the Canal. The Committee's recommendation shall be transmitted to the two Governments, which shall give such recommendations full consideration in the formulation of such policy decisions.

8. In addition to the participation of Panamanian nationals at high management levels of the Panama Canal Commission, as provided for in paragraph 3 of this Article, there shall be growing participation of Panamanian nationals at all other levels and areas of employment in the aforesaid commission, with the objective of preparing, in an orderly and efficient fashion, for the assumption by the Republic of Panama of full responsibility for the management,

operation and maintenance of the Canal upon the termination of this Treaty.

9. The use of the areas, waters and installations with respect to which the United States of America is granted rights pursuant to this Article, and the rights and legal status of United States Government agencies and employees operating in the Republic of Panama pursuant to this Article, shall be governed by the Agreement in Implementation of this Article, signed this date.

10. Upon entry into force of this Treaty, the United States Government agencies known as the Panama Canal Company and the Canal Zone Government shall cease to operate within the territory of the Republic of Panama that formerly constituted the Canal Zone.

ARTICLE IV.—PROTECTION AND DEFENSE

1. The United States of America and the Republic of Panama commit themselves to protect and defend the Panama Canal. Each Party shall act, in accordance with its constitutional processes, to meet the danger resulting from an armed attack or other actions which threaten the security of the Panama Canal or of ships transiting it.

2. For the duration of this Treaty, the United States of America shall have primary responsibility to protect and defend the Canal. The rights of the United States of America to station, train, and move military forces within the Republic of Panama are described in the Agreement in Implementation of this Article, signed this date. The use of areas and installations and the legal status of the armed forces of the United States of America in the Republic of Panama shall be governed by the aforesaid Agreement.

3. In order to facilitate the participation and cooperation of the armed forces of both Parties in the protection and defense of the Canal, the United States of America and the Republic of Panama shall establish a Combined Board comprised of an equal number of senior military representatives of each party. These representatives shall be charged by their respective governments with consulting and cooperating on all matters pertaining to the protection and defense of the Canal, and with planning for actions to be taken in concert for that purpose. Such combined protection and defense arrangements shall not inhibit the identity or lines of authority of the armed forces of the United States of America or the Republic of Panama. The Combined Board shall provide for coordination and cooperation concerning such matters as:

(a) The preparation of contingency plans for the protection and defense of the Canal based upon the cooperative efforts of the armed forces of both Parties;

(b) The planning and conduct of combined military exercises; and

(c) The conduct of United States and Panamanian military operations with respect to the protection and defense of the Canal.

4. The Combined Board shall, at five-year intervals throughout the duration of this Treaty, review the resources being made available by the two Parties for the protection and defense of the Canal. Also, the Combined Board shall make appropriate recommendations to the two Governments respecting projected requirements,

the efficient utilization of available resources of the two Parties, and other matters of mutual interest with respect to the protection and defense of the Canal.

5. To the extent possible consistent with its primary responsibility for the protection and defense of the Panama Canal, the United States of America will endeavor to maintain its armed forces in the Republic of Panama in normal times at a level not in excess of that of the armed forces of the United States of America in the territory of the former Canal Zone immediately prior to the entry into force of this Treaty.

ARTICLE V.—PRINCIPLE OF NON-INTERVENTION

Employees of the Panama Canal Commission, their dependents and designated contractors of the Panama Canal Commission, who are nationals of the United States of America, shall respect the laws of the Republic of Panama and shall abstain from any activity incompatible with the spirit of this Treaty. Accordingly, they shall abstain from any political activity in the Republic of Panama as well as from any intervention in the internal affairs of the Republic of Panama. The United States of America shall take all measures within its authority to ensure that the provisions of this Article are fulfilled.

ARTICLE VI.—PROTECTION OF THE ENVIRONMENT

1. The United States of America and the Republic of Panama commit themselves to implement this Treaty in a manner consistent with the protection of the natural environment of the Republic of Panama. To this end, they shall consult and cooperate with each other in all appropriate ways to ensure that they shall give due regard to the protection and conservation of the environment.

2. A Joint Commission on the Environment shall be established with equal representation from the United States of America and the Republic of Panama, which shall periodically review the implementation of this Treaty and shall recommend as appropriate to the two Governments ways to avoid or, should this not be possible, to mitigate the adverse environmental impacts which result from their respective actions pursuant to the Treaty.

3. The United States of America and the Republic of Panama shall furnish the Joint Commission on the Environment complete information on any action taken in accordance with this Treaty which, in the judgment of both, might have a significant effect on the environment. Such information shall be made available to the Commission as far in advance of the contemplated action as possible to facilitate the study by the Commission of any potential environmental problems and to allow for consideration of the recommendation of the Commission before the contemplated action is carried out.

ARTICLE VII.—FLAGS

1. The entire territory of the Republic of Panama, including the areas the use of which the Republic of Panama makes available to the United States of America pursuant to this Treaty and related

agreements, shall be under the flag of the Republic of Panama, and consequently such flag always shall occupy the position of honor.

2. The flag of the United States of America may be displayed, together with the flag of the Republic of Panama, at the headquarters of the Panama Canal Commission, at the site of the Combined Board and as provided in the Agreement in Implementation of Article IV of this Treaty.

3. The flag of the United States of America also may be displayed at other places and on some occasions, as agreed by both Parties.

ARTICLE VIII.—PRIVILEGES AND IMMUNITIES

1. The installations owned or used by the agencies or instrumentalities of the United States of America operating in the Republic of Panama pursuant to this Treaty and related agreements, and their official archives and documents, shall be inviolable. The two Parties shall agree on procedures to be followed in the conduct of any criminal investigation at such locations by the Republic of Panama.

2. Agencies and instrumentalities of the Government of the United States of America operating in the Republic of Panama pursuant to this Treaty and related agreements shall be immune from the jurisdiction of the Republic of Panama.

3. In addition to such other privileges and immunities as are afforded to employees of the United States Government and their dependents pursuant to this Treaty, the United States of America may designate up to twenty officials of the Panama Canal Commission who, along with their dependents, shall enjoy the privileges and immunities accorded to diplomatic agents and their dependents under international law and practice. The United States of America shall furnish to the Republic of Panama a list of the names of said officials and their dependents, identifying the positions they occupy in the Government of the United States of America, and shall keep such list current at all times.

ARTICLE IX.—APPLICABLE LAWS AND LAW ENFORCEMENT

1. In accordance with the provisions of this Treaty and related agreements, the law of the Republic of Panama shall apply in the areas made available for the use of the United States of America pursuant to this Treaty. The law of the Republic of Panama shall be applied to matters or events which occurred in the former Canal Zone prior to the entry into force of this Treaty only to the extent specifically provided in prior treaties and agreements.

2. Natural or juridical persons who, on the date of entry into force of this Treaty, are engaged in business or non-profit activities at locations in the former Canal Zone may continue such business or activities at those locations under the same terms and conditions prevailing prior to the entry into force of this Treaty for a thirty-month transition period from its entry into force. The Republic of Panama shall maintain the same operating conditions as those applicable to the aforementioned enterprises prior to the entry into force of this Treaty in order that they may receive licenses to do business in the Republic of Panama subject to their compliance

with the requirements of its law. Thereafter, such persons shall receive the same treatment under the law of the Republic of Panama as similar enterprises already established in the rest of the territory of the Republic of Panama without discrimination.

3. The rights of ownership, as recognized by the United States of America, enjoyed by natural or juridical private persons in buildings and other improvements to real property located in the former Canal Zone shall be recognized by the Republic of Panama in conformity with its laws.

4. With respect to buildings and other improvements to real property located in the Canal operating areas, housing areas or other areas subject to the licensing procedure established in Article IV of the Agreement in Implementation of Article III of this Treaty, the owners shall be authorized to continue using the land upon which their property is located in accordance with the procedures established in that Article.

5. With respect to buildings and other improvements to real property located in areas of the former Canal Zone to which the aforesaid licensing procedure is not applicable, or may cease to be applicable during the lifetime or upon termination of this Treaty, the owners may continue to use the land upon which their property is located, subject to the payment of a reasonable charge to the Republic of Panama. Should the Republic of Panama decide to sell such land, the owners of the buildings or other improvements located thereon shall be offered a first option to purchase such land at a reasonable cost. In the case of non-profit enterprises, such as churches and fraternal organizations, the cost of purchase will be nominal in accordance with the prevailing practice in the rest of the territory of the Republic of Panama.

6. If any of the aforementioned persons are required by the Republic of Panama to discontinue their activities or vacate their property for public purposes, they shall be compensated at fair market value by the Republic of Panama.

7. The provisions of paragraphs 2–6 above shall apply to natural or juridical persons who have been engaged in business or nonprofit activities at locations in the former Canal Zone for at least six months prior to the date of signature of this Treaty.

8. The Republic of Panama shall not issue, adopt or enforce any law, decree, regulation, or international agreement or take any other action which purports to regulate or would otherwise interfere with the exercise on the part of the United States of America of any right granted under this Treaty or related agreements.

9. Vessels transiting the Canal, and cargo, passengers and crews carried on such vessels shall be exempt from any taxes, fees, or other charges by the Republic of Panama. However, in the event such vessels call at a Panamanian port, they may be assessed charges incidental thereto, such as charges for services provided to the vessel. The Republic of Panama may also require the passengers and crew disembarking from such vessels to pay such taxes, fees and charges as are established under Panamanian law for persons entering its territory. Such taxes, fees and charges shall be assessed on a nondiscriminatory basis.

10. The United States of America and the Republic of Panama will cooperate in taking such steps as may from time to time be

necessary to guarantee the security of the Panama Canal Commission, its property, its employees and their dependents, and their property, the Forces of the United States of America and the members thereof, the civilian component of the United States Forces, the dependents of members of the Forces and the civilian components, and their property, and the contractors of the Panama Canal Commission and of the United States Forces, their dependents, and their property. The Republic of Panama will seek from its Legislative Branch such legislation as may be needed to carry out the foregoing purposes and to punish any offenders.

11. The Parties shall conclude an agreement whereby nationals of either State, who are sentenced by the courts of the other State, and who are not domiciled therein, may elect to serve their sentences in their State of nationality.

ARTICLE X.—EMPLOYMENT WITH THE PANAMA CANAL COMMISSION

1. In exercising its rights and fulfilling its responsibilities as the employer, the United States of America shall establish employment and labor regulations which shall contain the terms, conditions and prerequisites for all categories of employees of the Panama Canal Commission. These regulations shall be provided to the Republic of Panama prior to their entry into force.

2. (a) The regulations shall establish a system of preference when hiring employees, for Panamanian applicants possessing the skills and qualifications required for employment by the Panama Canal Commission. The United States of America shall endeavor to ensure that the number of its employees will conform to the proportion established for foreign enterprises under the law of the Republic of Panama.

(b) The terms and conditions of employment to be established will in general be no less favorable to persons already employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty, than those in effect immediately prior to that date.

3. (a) The United States of America shall establish an employment policy for the Panama Canal Commission that shall generally limit the recruitment of personnel outside of the Republic of Panama to persons possessing requisite skills and qualifications which are not available in the Republic of Panama.

(b) The United States of America will establish training programs for Panamanian employees and apprentices in order to increase the number of Panamanian nationals qualified to assume positions with the Panama Canal Commission, as positions become available.

(c) Within five years from the entry into force of this Treaty, the number of United States nationals employed by the Panama Canal Commission who were previously employed by the Panama Canal Company shall be at least twenty percent less than the total number of United States nationals working for the Panama Canal Company immediately prior to the entry into force of this Treaty.

(d) The United States of America shall periodically inform the Republic of Panama, through the Coordinating Committee, established pursuant to the Agreement in Implementation of Article III of this Treaty, of available positions within the Panama Canal Commission. The Republic of Panama shall similarly provide the United States of America any information it may have as to the availability of Panamanian nationals claiming to have skills and qualifications that might be required by the Panama Canal Commission, in order that the United States of America may take this information into account.

4. The United States of America will establish qualification standards for skills, training and experience required by the Panama Canal Commission. In establishing such standards, to the extent they include a requirement for a professional license, the United States of America, without prejudice to its right to require additional professional skills and qualifications, shall recognize the professional licenses issued by the Republic of Panama.

5. The United States of America shall establish a policy for the periodic rotation, at a maximum of every five years, of United States citizen employees and other non-Panamanian employees, hired after the entry into force of this Treaty. It is recognized that certain exceptions to the said policy of rotation may be made for sound administrative reasons, such as in the case of employees holding positions requiring certain non-transferable or nonrecruitable skills.

6. With regard to wages and fringe benefits, there shall be no discrimination on the basis of nationality, sex, or race. Payments by the Panama Canal Commission of additional remuneration, or the provision of other benefits, such as home leave benefits, to United States nationals employed prior to entry into force of this Treaty, or to persons of any nationality, including Panamanian nationals who are thereafter recruited outside of the Republic of Panama and who change their place of residence, shall not be considered to be discrimination for the purpose of this paragraph.

7. Persons employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty, who are displaced from their employment as a result of the discontinuance by the United States of America of certain activities pursuant to this Treaty, will be placed by the United States of America, to the maximum extent feasible, in other appropriate jobs with the Government of the United States in accordance with United States Civil Service regulations. For such persons who are not United States nationals, placement efforts will be confined to United States Government activities located within the Republic of Panama. Likewise, persons previously employed in activities for which the Republic of Panama assumes responsibility as a result of this Treaty will be continued in their employment to the maximum extent feasible by the Republic of Panama. The Republic of Panama shall, to the maximum extent feasible, ensure that the terms and conditions of employment applicable to personnel employed in the activities for which it assumes responsibility are no less favorable than those in effect immediately prior to the entry into force of this Treaty. Non-United States nationals employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty who are involuntarily separated from their positions because of the discontinuance of an activity by reason of this Treaty, who are not entitled to an immediate annu-

ity under the United States Civil Service Retirement System, and for whom continued employment in the Republic of Panama by the Government of the United States of America is not practicable, will be provided special job placement assistance by the Republic of Panama for employment in positions for which they may be qualified by experience and training.

8. The Parties agree to establish a system whereby the Panama Canal Commission may, if deemed mutually convenient or desirable by the two Parties, assign certain employees of the Panama Canal Commission, for a limited period of time, to assist in the operation of activities transferred to the responsibility of the Republic of Panama as a result of this Treaty or related agreements. The salaries and other costs of employment of any such persons assigned to provide such assistance shall be reimbursed to the United States of America by the Republic of Panama.

9. (a) The right of employees to negotiate collective contracts with the Panama Canal Commission is recognized. Labor relations with employees of the Panama Canal Commission shall be conducted in accordance with forms of collective bargaining established by the United States of America after consultation with employee unions.

(b) Employee unions shall have the right to affiliate with international labor organizations.

10. The United States of America will provide an appropriate early optional retirement program for all persons employed by the Panama Canal Company or Canal Zone Government immediately prior to the entry into force of this Treaty. In this regard, taking into account the unique circumstances created by the provisions of this Treaty, including its duration, and their effect upon such employees, the United States of America shall, with respect to them:

(a) determine that conditions exist which invoke applicable United States law permitting early retirement annuities and apply such law for a substantial period of the duration of the Treaty;

(b) seek special legislation to provide more liberal entitlement to, and calculation of, retirement annuities than is currently provided for by law.

ARTICLE XI.—PROVISIONS FOR THE TRANSITION PERIOD

1. The Republic of Panama shall reassume plenary jurisdiction over the former Canal Zone upon entry into force of this Treaty and in accordance with its terms. In order to provide for an orderly transition to the full application of the jurisdictional arrangements established by this Treaty and related agreements, the provisions of this Article shall become applicable upon the date this Treaty enters into force, and shall remain in effect for thirty calendar months. The authority granted in this Article to the United States of America for this transition period shall supplement, and is not intended to limit, the full application and effect of the rights and authority granted to the United States of America elsewhere in this Treaty and in related agreements.

2. During this transition period, the criminal and civil laws of the United States of America shall apply concurrently with those of the Republic of Panama in certain of the areas and installations

made available for the use of the United States of America pursuant to this Treaty, in accordance with the following provisions:

(a) The Republic of Panama permits the authorities of the United States of America to have the primary right to exercise criminal jurisdiction over United States citizen employees of the Panama Canal Commission and their dependents, and members of the United States Forces and civilian component and their dependents, in the following cases:

(i) for any offense committed during the transition period within such areas and installations, and

(ii) for any offense committed prior to that period in the former Canal Zone.

The Republic of Panama shall have the primary right to exercise jurisdiction over all other offenses committed by such persons, except as otherwise provided in this Treaty and related agreements or as may be otherwise agreed.

(b) Either Party may waive its primary right to exercise jurisdiction in a specific case or category of cases.

3. The United States of America shall retain the right to exercise jurisdiction in criminal cases relating to offenses committed prior to the entry into force of this Treaty in violation of the laws applicable in the former Canal Zone.

4. For the transition period, the United States of America shall retain police authority and maintain a police force in the aforementioned areas and installations. In such areas, the police authorities of the United States of America may take into custody any person not subject to their primary jurisdiction if such person is believed to have committed or to be committing an offense against applicable laws or regulations, and shall promptly transfer custody to the police authorities of the Republic of Panama. The United States of America and the Republic of Panama shall establish joint police patrols in agreed areas. Any arrests conducted by a joint patrol shall be the responsibility of the patrol member or members representing the Party having primary jurisdiction over the person or persons arrested.

5. The courts of the United States of America and related personnel, functioning in the former Canal Zone immediately prior to the entry into force of this Treaty may continue to function during the transition period for the judicial enforcement of the jurisdiction to be exercised by the United States of America in accordance with this Article.

6. In civil cases, the civilian courts of the United States of America in the Republic of Panama shall have no jurisdiction over new cases of a private civil nature, but shall retain full jurisdiction during the transition period to dispose of any civil cases, including admiralty cases, already instituted and pending before the courts prior to the entry into force of this Treaty.

7. The laws, regulations, and administrative authority of the United States of America applicable in the former Canal Zone immediately prior to the entry into force of this Treaty shall, to the extent not inconsistent with this Treaty and related agreements, continue in force for the purpose of the exercise by the United States of America of law enforcement and judicial jurisdiction only during the transition period. The United States of America may

amend, repeal or otherwise change such laws, regulations and administrative authority. The two Parties shall consult concerning procedural and substantive matters relative to the implementation of this Article, including the disposition of cases pending at the end of the transition period and, in this respect, may enter into appropriate agreements by an exchange of notes or other instrument.

8. During this transition period, the United States of America may continue to incarcerate individuals in the areas and installations made available for the use of United States of America by the Republic of Panama pursuant to this Treaty and related agreements, or to transfer them to penal facilities in the United States of America to serve their sentences.

ARTICLE XII.—A SEA-LEVEL CANAL OR A THIRD LANE OF LOCKS

1. The United States of America and the Republic of Panama recognize that a sea-level canal may be important for international navigation in the future. Consequently, during the duration of this Treaty, both Parties commit themselves to study jointly the feasibility of a sea-level canal in the Republic of Panama, and in the event they determine that such a waterway is necessary, they shall negotiate terms, agreeable to both Parties, for its construction.

2. The United States of America and the Republic of Panama agree on the following:

(a) No new interoceanic canal shall be constructed in the territory of the Republic of Panama during the duration of this Treaty, except in accordance with the provisions of this Treaty, or as the two Parties may otherwise agree; and

(b) During the duration of this Treaty, the United States of America shall not negotiate with third States for the right to construct an interoceanic canal on any other route in the Western Hemisphere, except as the two Parties may otherwise agree.

3. The Republic of Panama grants to the United States of America the right to add a third lane of locks to the existing Panama Canal. This right may be exercised at any time during the duration of this Treaty, provided that the United States of America has delivered to the Republic of Panama copies of the plans for such construction.

4. In the event the United States of America exercises the right granted in paragraph 3 above, it may use for that purpose, in addition to the areas otherwise made available to the United States of America pursuant to this Treaty, such other areas as the two Parties may agree upon. The terms and conditions applicable to Canal operating areas made available by the Republic of Panama for the use of the United States of America pursuant to Article III of this Treaty shall apply in a similar manner to such additional areas.

5. In the construction of the aforesaid works, the United States of America shall not use nuclear excavation techniques without the previous consent of the Republic of Panama.

ARTICLE XIII.—PROPERTY TRANSFER AND ECONOMIC PARTICIPATION BY THE REPUBLIC OF PANAMA

1. Upon termination of this Treaty, the Republic of Panama shall assume total responsibility for the management, operation, and

maintenance of the Panama Canal, which shall be turned over in operating condition and free of liens and debts, except as the two Parties may otherwise agree.

2. The United States of America transfers, without charge, to the Republic of Panama all right, title and interest the United States of America may have with respect to all real property, including nonremovable improvements thereon, as set forth below:

(a) Upon the entry into force of this Treaty, the Panama Railroad and such property that was located in the former Canal Zone but that is not within the land and water areas the use of which is made available to the United States of America pursuant to this Treaty. However, it is agreed that the transfer on such date shall not include buildings and other facilities, except housing, the use of which is retained by the United States of America pursuant to this Treaty and related agreements, outside such areas;

(b) Such property located in an area of a portion thereof at such time as the use by the United States of America of such area or portion thereof ceases pursuant to agreement between the two Parties.

(c) Housing units made available for occupancy by members of the Armed Forces of the Republic of Panama in accordance with paragraph 5(b) of Annex B to the Agreement in Implementation of Article IV of this Treaty at such time as such units are made available to the Republic of Panama.

(d) Upon termination of this Treaty, all real property and nonremovable improvements that were used by the United States of America for the purposes of this Treaty and related agreements and equipment related to the management, operation and maintenance of the Canal remaining in the Republic of Panama.

3. The Republic of Panama agrees to hold the United States of America harmless with respect to any claims which may be made by third parties relating to rights, title and interest in such property.

4. The Republic of Panama shall receive, in addition, from the Panama Canal Commission a just and equitable return on the national resources which it has dedicated to the efficient management, operation, maintenance, protection and defense of the Panama Canal, in accordance with the following:

(a) An annual amount to be paid out of Canal operating revenues computed at a rate of thirty hundredths of a United States dollar ($0.30) per Panama Canal net ton, or its equivalency, for each vessel transiting the Canal after the entry into force of this Treaty, for which tolls are charged. The rate of thirty hundredths of a United States dollar ($0.30) per Panama Canal net ton, or its equivalency, will be adjusted to reflect changes in the United States wholesale price index for total manufactured goods during biennial periods. The first adjustment shall take place five years after entry into force of this Treaty, taking into account the changes that occurred in such price index during the preceding two years. Thereafter, successive adjustments shall take place at the end of each biennial period. If the United States of America should decide that another indexing method is preferable, such method shall be proposed to the Republic of Panama and applied if mutually agreed.

(b) A fixed annuity of ten million United States dollars ($10,000,000) to be paid out of Canal operating revenues. This amount shall constitute a fixed expense of the Panama Canal Commission.

(c) An annual amount of up to ten million United States dollars ($10,000,000) per year, to be paid out of Canal operating revenues to the extent that such revenues exceed expenditures of the Panama Canal Commission including amounts paid pursuant to this Treaty. In the event Canal operating revenues in any year do not produce a surplus sufficient to cover this payment, the unpaid balance shall be paid from operating surpluses in future years in a manner to mutually agreed.

ARTICLE XIV.—SETTLEMENT OF DISPUTES

In the event that any question should arise between the Parties concerning the interpretation of this Treaty or related agreements, they shall make every effort to resolve the matter through consultation in the appropriate committees established pursuant to this Treaty and related agreements, or, if appropriate, through diplomatic channels. In the event the Parties are unable to resolve a particular matter through such means, they may, in appropriate cases, agree to submit the matter to conciliation, mediation, arbitration, or such other procedure for the peaceful settlement of the dispute as they may mutually deem appropriate.

DONE at Washington, this 7th day of September, 1977, in duplicate, in the English and Spanish languages, both texts being equally authentic.

ANNEX

PROCEDURES FOR THE CESSATION OR TRANSFER OF ACTIVITIES CARRIED OUT BY THE PANAMA CANAL COMPANY AND THE CANAL ZONE GOVERNMENT AND ILLUSTRATIVE LIST OF THE FUNCTIONS THAT MAY BE PERFORMED BY THE PANAMA CANAL COMMISSION

1. The laws of the Republic of Panama shall regulate the exercise of private economic activities within the areas made available by the Republic of Panama for the use of the United States of America pursuant to this Treaty. Natural or juridical persons who, at least six months prior to the date of signature of this Treaty, were legally established and engaged in the exercise of economic activities in the former Canal Zone, may continue such activities in accordance with the provisions of paragraphs 2–7 of Article IX of this Treaty.

2. The Panama Canal Commission shall not perform governmental or commercial functions as stipulated in paragraph 4 of this Annex, provided, however, that this shall not be deemed to limit in any way the right of the United States of America to perform those functions that may be necessary for the efficient management, operation and maintenance of the Canal.

3. It is understood that the Panama Canal Commission, in the exercise of the rights of the United States of America with respect to the management, operation and maintenance of the Canal, may

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perform functions such as are set forth below by way of illustration:

a. Management of the Canal enterprise.

b. Aids to navigation in Canal waters and in proximity thereto.

c. Control of vessel movement.

d. Operation and maintenance of the locks.

e. Tug service for the transit of vessels and dredging for the piers and docks of the Panama Canal Commission.

f. Control of the water levels in Gatun, Alajuela (Madden) and Miraflores Lakes.

g. Non-commercial transportation services in Canal waters.

h. Meteorological and hydrographic services.

i. Admeasurement.

j. Non-commercial motor transportation and maintenance.

k. Industrial security through the use of watchmen.

l. Procurement and warehousing.

m. Telecommunications.

n. Protection of the environment by preventing and controlling the spillage of oil and substances harmful to human or animal life and of the ecological equilibrium in areas used in operation of the Canal and the anchorages.

o. Non-commercial vessel repair.

p. Air conditioning services in Canal installations.

q. Industrial sanitation and health services.

r. Engineering design, construction and maintenance of Panama Canal Commission installations.

s. Dredging of the Canal channel, terminal ports and adjacent waters.

t. Control of the banks and stabilizing of the slopes of the Canal.

u. Non-commercial handling of cargo on the piers and docks of the Panama Canal Commission.

v. Maintenance of public areas of the Panama Canal Commission, such as parks and gardens.

w. Generation of electric power.

x. Purification and supply of water.

y. Marine salvage in Canal waters.

z. Such other functions as may be necessary or appropriate to carry out, in conformity with this Treaty and related agreements, the rights and responsibilities of the United States of America with respect to the management, operation and maintenance of the Panama Canal.

4. The following activities and operations carried out by the Panama Canal Company and the Canal Zone Government shall not be carried out by the Panama Canal Commission, effective upon the dates indicated therein:

(a) Upon the date of entry into force of this Treaty:

(i) Wholesale and retail sales, including those through commissaries, food stores, department stores, optical shops and pastry shops;

(ii) The production of food and drink, including milk products and bakery products;

(iii) The operation of public restaurants and cafeterias and the sale of articles through vending machines;

(iv) The operation of movie theaters, bowling alleys, pool rooms and other recreational and amusement facilities for the use of which a charge is payable;

(v) The operation of laundry and dry cleaning plants other than those operated for official use;

(vi) The repair and service of privately owned automobiles or the sale of petroleum or lubricants thereto, including the operation of gasoline stations, repair garages and tire repair and recapping facilities, and the repair and service of other privately owned property, including applicants, electronic devices, boats, motors, and furniture;

(vii) The operation of cold storage and freezer plants other than those operated for official use;

(viii) The operation of freight houses other than those operated for official use;

(ix) The operation of commercial services to and supply of privately owned and operated vessels, including the construction of vessels, the sale of petroleum luburicants and the provision of water, tug services not related to the Canal or other United States Government operations, and repair of such vessels, except in situations where repairs may be necessary to remove disabled vessels from the Canal;

(x) Printing services other than for official use;

(xi) Maritime transportation for the use of the general public;

(xii) Health and medical services provided to individuals, including hospitals, leprosariums, veterinary, mortuary and cemetery services;

(xiii) Educational services not for professional training, including schools and libraries;

(xiv) Postal services;

(xv) Immigration, customs and quarantine controls, except those measures necessary to ensure the sanitation of the Canal;

(xvi) Commercial pier and dock services such as the handling of cargo and passengers; and

(xvii) Any other commerical activity of a similar nature, not related to the management, operation or maintenance of the Canal.

(b) Within thirty calendar months from the date of entry into force of this Treaty, governmental services such as:

(i) Police;

(ii) Courts; and

(iii) Prison system.

5. (a) With respect to those activities or functions described in paragraph 4 above, or otherwise agreed upon by the two Parties, which are to be assumed by the Government of the Republic of Panama or by private persons subject to its authority, the two Parties shall consult prior to the discontinuance of such activities or functions by the Panama Canal Commission to develop appropriate arrangements for the orderly transfer and continued efficient operation or conduct thereof.

(b) In the event that appropriate arrangements cannot be arrived at to ensure the continued performance of a particular activity or function described in paragraph 4 above which is necessary to the efficient management, operation or maintenance of the Canal, the Panama Canal Commission may, to the extent consistent with the other provisions of this Treaty and related agreements, continue to perform such activity or function until such arrangements can be made.

(2) Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal

The United States of America and the Republic of Panama have agreed upon the following:

ARTICLE I

The Republic of Panama declares that the Canal, as an international transit waterway, shall be permanently neutral in accordance with the regime established in this Treaty. The same regime of neutrality shall apply to any other international waterway that may be built either partially or wholly in the territory of the Republic of Panama.

ARTICLE II

The Republic of Panama declares the neutrality of the Canal in order that both in time of peace and in time of war it shall remain secure and open to peaceful transit by the vessels of all nations on terms of entire equality, so that there will be no discrimination against any nation, or its citizens or subjects, concerning the conditions or charges of transit, or for any other reason, and so that the Canal, and therefore the Isthmus of Panama, shall not be the target of reprisals in any armed conflict between other nations of the world. The foregoing shall be subject to the following requirements:

(a) Payment of tolls and other charges for transit and ancillary services, provided they have been fixed in conformity with the provisions of Article III(c);

(b) Compliance with applicable rules and regulations, provided such rules and regulations are applied in conformity with the provisions of Article III;

(c) The requirement that transiting vessels commit no acts of hostility while in the Canal; and

(d) Such other conditions and restrictions as are established by this Treaty.

ARTICLE III

1. For purposes of the security, efficiency and proper maintenance of the Canal the following rules shall apply:

(a) The Canal shall be operated efficiently in accordance with conditions of transit through the Canal, and rules and regulations that shall be just, equitable and reasonable, and limited to those necessary for safe navigation and efficient, sanitary operation of the Canal;

(b) Ancillary services necessary for transit through the Canal shall be provided;

(c) Tolls and other charges for transit and ancillary services shall be just, reasonable, equitable and consistent with the principles of international law;

(d) As a pre-condition of transit, vessels may be required to establish clearly the financial responsibility and guarantees for payment of reasonable and adequate indemnification, consistent with international practice and standards, for damages resulting from acts or omissions of such vessels when passing through the Canal. In the case of vessels owned or operated by a State or for which it has acknowledged responsibility, a certification by that State that it shall observe its obligations under international law to pay for damages resulting from the act or omission of such vessels when passing through the Canal shall be deemed sufficient to establish such financial responsibility;

(e) Vessels of war and auxiliary vessels of all nations shall at all times be entitled to transit the Canal, irrespective of their internal operation, means of propulsion, origin, destination or armament, without being subjected as a condition of transit, to inspection, search or surveillance. However, such vessels may be required to certify that they have complied with all applicable health, sanitation and quarantine regulations. In addition, such vessels shall be entitled to refuse to disclose their internal operation, origin, armament, cargo or destination. However, auxiliary vessels may be required to present written assurances, certified by an official at a high level of the government of the State requesting the exemption, that they are owned or operated by that government and in this case are being used only on government non-commercial service.

2. For the purposes of this Treaty, the terms "Canal," "vessel of war," "auxiliary vessel," "internal operation," "armament" and "inspection" shall have the meanings assigned them in Annex A to this Treaty.

ARTICLE IV [1]

The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this Treaty, which shall be maintained in order that the Canal shall remain permanently neutral, notwithstanding the termination of any other treaties entered into by the two Contracting Parties.

ARTICLE V

After the termination of the Panama Canal Treaty, only the Republic of Panama shall operate the Canal and maintain military forces, defense sites and military installations within its national territory.

ARTICLE VI [1]

1. In recognition of the important contributions of the United States of America and of the Republic of Panama to the construction, operation, maintenance, and protection and defense of the

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[1] In its resolution of ratification to the Treaties the Senate included amendments to Article IV and Article VI. See pages 997–1002 for text of these amendments.

Canal, vessels of war and auxiliary vessels of those nations shall, notwithstanding any other provisions of this Treaty, be entitled to transit the Canal irrespective of their internal operation, means of propulsion, origin, destination, armament or cargo carried. Such vessels of war and auxiliary vessels will be entitled to transit the Canal expeditiously.

2. The United States of America, so long as it has responsibility for the operation of the Canal, may continue to provide the Republic of Columbia toll-free transit through the Canal for its troops, vessels, and materials of war. Thereafter, the Republic of Panama may provide the Republic of Columbia and the Republic of Costa Rica with the right of toll-free transit.

ARTICLE VII

1. The United States of America and the Republic of Panama shall jointly sponsor a resolution in the Organization of American States opening to accession by all nations of the world the Protocol to this Treaty whereby all the signatories will adhere to the objectives of this Treaty, agreeing to respect the regime of neutrality set forth herein.

2. The Organization of American States shall act as the depositary for this Treaty and related instruments.

ARTICLE VIII

This Treaty shall be subject to ratification in accordance with the constitutional procedures of the two Parties. The instruments of ratification of this Treaty shall be exchanged at Panama at the same time as the instruments of ratification of the Panama Canal Treaty, signed this date, are exchanged. This Treaty shall enter into force, simultaneously with the Panama Canal Treaty, six calendar months from the date of the exchange of the instruments of ratification.

DONE at Washington, this 7th day of September, 1977, in the English and Spanish languages, both texts being equally authentic.

ANNEX A

1. "Canal" includes the existing Panama Canal, the entrances thereto and the territorial seas of the Republic of Panama adjacent thereto, as defined on the map annexed hereto (Annex B), and any other interoceanic waterway in which the United States of America is a participant or in which the United States of America has participated in connection with the construction or financing, that may be operated wholly or partially within the territory of the Republic of Panama, the entrances thereto and the territorial seas adjacent thereto.

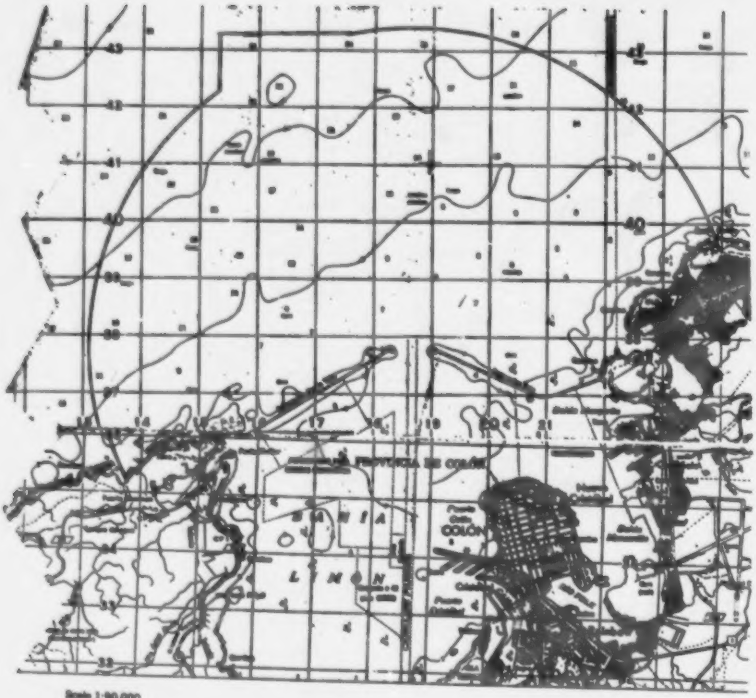
2. "Vessel of war" means a ship belonging to the naval forces of a State, and bearing the external marks distinguishing warships of its nationality, under the command of an officer duly commissioned by the government and whose name appears in the Navy List, and manned by a crew which is under regular naval discipline.

3. "Auxiliary vessel" means any ship, not a vessel of war, that is owned or operated by a State and used, for the time being, exclusively on government non-commercial service.

4. "Internal operation" encompasses all machinery and propulsion systems, as well as the management and control of the vessel, including its crew. It does not include the measures necessary to transmit vessels under the control of pilots while such vessels are in the Canal.

5. "Armament" means arms, ammunitions, implements of war and other equipment of a vessel which possess characteristics appropriate for use for warlike purposes.

6. "Inspection" includes on-board examination of vessel structure, cargo, armament and internal operation. It does not include those measures strictly necessary for admeasurement, nor those measures strictly necessary to assure safe, sanitary transit and navigation, including examination of deck and visual navigation equipment, nor in the case of live cargoes, such as cattle or other livestock that may carry communicable diseases, those measures necessary to assure that health and sanitation requirements are satisfied.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41
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39
38
37
14
17
19
21
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COLÓN
32

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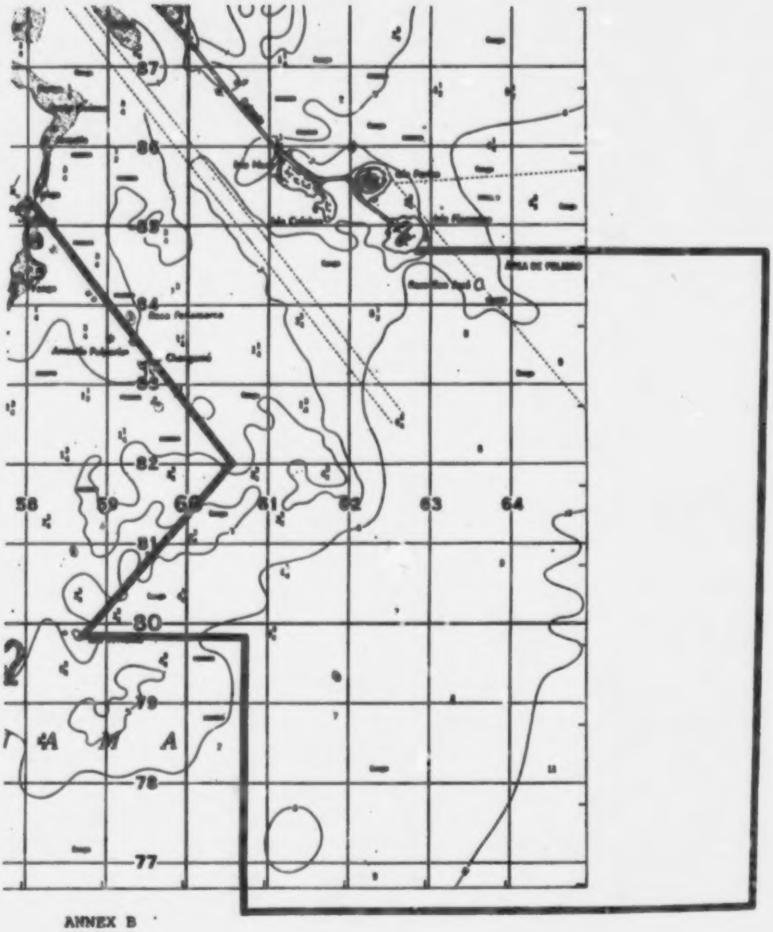
MAP ATTACHMENT TO ANNEX "A" OF TREATY CONCERNING THE PERMANENT NEUTRALITY AND OPERATION OF THE PANAMA CANAL

[ANNEX B]
[ANEXO B]

MAPA ADJUNTO AL ANEXO A DEL TRATADO CONCERNIENTE A LA NEUTRALIDAD PERMANENTE DEL CANAL Y AL FUNCIONAMIENTO DEL CANAL DE PANAMA



ANNEX B
ANEXO B

Protocol to the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal

Whereas the maintenance of the neutrality of the Panama Canal is important not only to the commerce and security of the United States of America and the Republic of Panama, but to the peace and security of the Western Hemisphere and to the interests of world commerce as well;

Whereas the regime of neutrality which the United States of America and the Republic of Panama have agreed to maintain will ensure permanent access to the Canal by vessels of all nations on the basis of entire equality; and

Whereas the said regime of effective neutrality shall constitute the best protection for the Canal and shall ensure the absence of any hostile act against it;

The Contracting Parties to this Protocol have agreed upon the following:

ARTICLE I

The Contracting Parties hereby acknowledge the regime of permanent neutrality for the Canal established in the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal and associate themselves with its objectives.

ARTICLE II

The Contracting Parties agree to observe and respect the regime of permanent neutrality of the Canal in time of war as in time of peace, and to ensure that vessels of their registry strictly observe the applicable rules.

ARTICLE III

This Protocol shall be open to accession by all States of the world, and shall enter into force for each State at the time of deposit of its instrument of accession with the Secretary General of the Organization of American States.

b. Documents Associated with the Panama Canal Treaties

CONTENTS

DOCUMENTS IMPLEMENTING THE PANAMA CANAL TREATY

Page
Agreement in Implementation of Article III of the Panama Canal Treaty 908
  Annex A 931
  Annex B 939
  Annex C 941
  Agreed Minute 942
Agreement in Implementation of Article IV of the Panama Canal Treaty 947
  Annex A 967
  Annex B 971
  Annex C 973
  Annex D 973
  Agreed Minute 974
Maps of the Land and Water Areas for the Operation and Defense of the Panama Canal, Referred to in the Agreements in Implementation of Articles III and IV of the Panama Canal Treaty. [The maps are not printed here. The map atlas is deposited in the archives of the Department of State where it is available for reference.]
Exchange of Notes Relating to Postal Services 978
Exchange of Notes Relating to Use of Commissary and Post Exchange Facilities 979
Letter Describing Application of the Wholesale Price Index Referred to in Paragraph 4(A) of Article XIII of the Panama Canal Treaty 980
Letter Regarding Termination of Article XVII of the United States-Panama Air Transport Services Agreement 981

OTHER DOCUMENTS

Agreement of Certain Activities of the United States of America in the Republic of Panama 981
Agreement Pursuant to Article VI of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere 984
Note Regarding Economic and Military Cooperation 987
Exchange of Notes Relating to Air Traffic Control Services 988
Note Regarding the Establishment of the Panama Bureau of the United States Foreign Broadcast Information Service 988
Exchange of Notes Relating to the Gorgas Memorial Institute of Tropical and Preventive Medicine, Incorporated, and to the Gorgas Memorial Laboratory 989
Exchange of Notes Relating to Scientific Activities in Panama of the Smithsonian Tropical Research Institute 991
Exchange of Notes Relating to Custodianship of the Barro Colorado Native Monument by the Smithsonian Tropical Research Institute 994

AGREEMENT IN IMPLEMENTATION OF ARTICLE III OF THE PANAMA CANAL TREATY

Whereas, pursuant to Article III of the Panama Canal Treaty, signed this date, the Republic of Panama, as territorial sovereign, grants to the United States of America the rights necessary to manage, operate, and maintain the Panama Canal, The United States of America and the Republic of Panama have agreed upon the following:

ARTICLE I.—DEFINITIONS

For the purposes of this Agreement it shall be understood that:

1. "Panama Canal Commission" (hereinafter referred to as "the Commission") means the agency or agencies of the Government of the United States responsible for carrying out the responsibilities and rights of the United States under the Panama Canal Treaty with respect to the management, operation, and maintenance of the Panama Canal.
2. "United States citizen employees" means (a) nationals of the United States, to whom United States passports have been issued, who are employed by the Commission and assigned for duty in the Republic of Panama (including employees of other civilian agencies of the United States who are on temporary duty with the Commission or are otherwise visiting the area on official business of the United States), and (b) other categories of persons which may be agreed upon by the two Parties.
3. "Dependents" means the spouse and children of United States citizen employees, and other relatives who depend on them for their subsistence and who habitually live with them under the same roof.

ARTICLE II.—COORDINATING COMMITTEE

1. A Coordinating Committee shall be established upon the entry into force of this Agreement to be composed of one representative of the United States and one representative of the Republic of Panama, of equal authority within the Committee, each of whom may have one or more deputies, on a parity basis.
2. The Coordinating Committee shall perform the functions specifically indicated by the provisions of this Agreement, and others entrusted to it by both Governments concerning implementation of this Agreement.
3. The Coordinating Committee shall establish its rules of procedure within the spirit of this Agreement and may designate such subcommittees as it may deem necessary for the fulfillment of its functions.
4. The Coordinating Committee shall be organized so that it may meet promptly and at any time upon request of the representative of the United States or of the Republic of Panama. The Coordinating Committee shall send periodic reports on its activities to the Governments of the United States and the Republic of Panama.
5. The Coordinating Committee shall refer any matters which it has not been able to resolve to the two Governments for their consideration through appropriate channels.

ARTICLE III.—USE OF LAND AND WATER AREAS

1. Canal Operating Areas: With respect to the areas and installations described in paragraph 1 of Annex A of this Agreement (hereinafter referred to as the "Canal operating areas"), the following provisions will be applicable:

(a) The United States shall have the right to use such areas and installations for the purposes of exercising its rights and fulfilling its responsibilities, under the Panama Canal Treaty and related agreements, concerning the management, operation and maintenance of the Panama Canal, and for such other purposes as the two Parties may agree upon.

(b) The United States shall have the right to use any portion of the Canal operating areas for military training, when such use is determined by the United States to be compatible with continued efficient operation of the Panama Canal.

2. Housing Areas: The areas and installations set forth in paragraph 2 of Annex A of this Agreement (hereinafter referred to as "housing areas") shall be dedicated to the primary purpose of housing United States citizen employees and dependents. The housing areas shall be administered in accordance with the regime of civil coordination established in Article VI of this Agreement.

3. Accessory Facilities and Installations: The United States may continue to use those accessory facilities or installations used in connection with the management, operation and maintenance of the Canal on the date this Agreement enters into force, but which are located outside the areas and installations otherwise made available for the use of the United States pursuant to the Panama Canal Treaty. A description of such facilities is set forth in paragraph 3 of Annex A to this Agreement. The United States, at its expense, may maintain, improve, replace, expand or remove these facilities and installations. The Unites States shall have unimpeded access to these and all other facilities and installations used in connection with the management, operation, or maintenance of the Canal.

4. Anchorages: The United States shall have free and unimpeded access to and use of the anchorages described in paragraph 4 of Annex A, for the purposes of exercising its rights and fulfilling its responsibilities concerning the movement and anchoring of vessels under the Panama Canal Treaty and related agreements. The United States may own, use, operate, inspect, maintain or replace equipment, facilities and navigational aids in these areas. The United States shall have the right to increase the size of the anchorages as may be necessary or convenient, within the areas described in paragraph 5 of Annex A.

5. Special Areas: Those additional land and water areas set forth in paragraph 6 of Annex A are subject to the procedures set forth in Article IV of this Agreement in order that activities incompatible with the efficient management, operation, or maintenance of the Canal shall be precluded.

6. Annex A of this Agreement shall be examined every five years or by agreement between the two Parties, and shall be revised by exchange of notes or other instrument to reflect any agreed elimination or change in areas. The United States may notify the Republic of Panama at any time that the use of an area, or of a specified portion thereof, or other right granted by the Republic of Panama, is no longer required. Under such circumstances, such use or other right shall cease on the date determined by the two Parties.

7. (a) The United States may, at any time, remove from the Republic of Panama, or, in accordance with such conditions as may be agreed upon by the two Parties, dispose of in the Republic of Panama, any equipment, material, supplies or other removable property brought into, acquired or constructed in the Republic of Panama by or for the Commission. In case of disposal within the Republic of Panama, preference will be given to the Government of the Republic of Panama.

(b) All equipment, installations, material, supplies or removable property left by the United States in an area made available under this Agreement beyond 90 days from the date the use of such area by the United States ceases shall, unless agreed otherwise by the two Parties, become the property of the Republic of Panama.

8. The Commission may employ watchmen to protect the security of selected installations within the areas made available for the use of the United States under this Agreement, it being understood that such installations do not include housing or other installations not devoted to the management, operation or maintenance of the Panama Canal. Such watchmen shall not have powers of arrest or other general police powers. They may, however, temporarily detain persons believed to be committing or to have just committed an offense against applicable laws or regulations, and shall promptly transfer custody to the appropriate police authorities. The Commission shall provide to the authorities of the Republic of Panama through the Coordinating Committee a list identifying the individuals employed by it as watchmen, and shall promptly notify the Republic of Panama of any changes in such list. In the performance of their duties, such watchmen shall not bear firearms except handguns.

9. The Coordinating Committee shall constitute the means of communication and information between the two Parties with regard to matters pertaining to the implementation of this Article.

ARTICLE IV.—LICENSING OF OTHER LAND USES

1. Without prejudice to the rights of the United States concerning use of areas and installations within the Republic of Panama under the Panama Canal Treaty and related agreements, the areas and installations set forth in Annex A may be used for other purposes compatible with the continuous efficient management, operation and maintenance of the Panama Canal, under land use licenses to be issued by the Republic of Panama in accordance with the following procedure:

(a) The Republic of Panama shall refer to the Coordinating Committee any requests it may receive from private concerns, or from agencies of the Republic of Panama, to undertake specific activities within the areas subject to this procedure.

(b) If the United States and the Republic of Panama, acting through the Coordinating Committee, determine that the proposed use, including its terms and conditions, is compatible with the continuous efficient management, operation and maintenance of the Panama Canal, the Republic of Panama shall issue a revocable land license for the specific use agreed upon. The United States must approve the license, in writing, before it becomes effective.

2. The Republic of Panama may terminate the land license for reasons arising under its laws.

3. At any time that the United States decides that a licensed land use is no longer compatible with the continuous efficient management, operation, or maintenance of the Panama Canal, or that the licensed area is necessary for a Panama Canal Treaty-related purpose, it may withdraw its concurrence in the land license, at which time the Republic of Panama shall cause the license to be terminated.

4. In the event that the United States withdraws its concurrence in a land license issued under the procedure established in this Article, the Republic of Panama shall take all measures necessary to ensure that the area is promptly vacated, in accordance with such rules as may be established by the two Parties through the Coordinating Committee.

5. The provisions of this Article shall not limit in any manner the authority of the United States to use the areas made available for its use under this Agreement, or to permit their use by its contractors, in the exercise of its rights and the fulfillment of its responsibilities under the Panama Canal Treaty and related Agreements.

ARTICLE V.—BALBOA AND CRISTOBAL PORTS AND THE PANAMA RAILROAD

1. As provided in Article XIII of the Panama Canal Treaty, all right, title and interest of the United States in property, installations and equipment in the Ports of Balboa and Cristobal, the boundaries of which are set forth in paragraph 1 of Annex B of this Agreement, is transferred without charge to the Republic of Panama.

2. The Republic of Panama shall have the responsibility for the management, operation and maintenance of the Ports of Balboa and Cristobal, subject, however, to the following terms and conditions:

(a) The Republic of Panama shall exercise its jurisdictional rights over vessels within the lands and waters areas of the Ports of Balboa and Cristobal. Movement of vessels to or from the piers and docks of the Ports of Balboa and Cristobal shall be subject to appropriate approval by the port authorities of the Republic of Panama.

(b) The Republic of Panama grants to the United States the following technical powers: the authority and responsibility for marine traffic control within the waters of the Canal operating areas and defense sites and within the ports of Balboa and Cristobal and to or from and within the anchorages and emergency beaching areas. Such authority and responsibility of the United States includes the right to require that vessels moving in such waters be under the direction of Commission pilots.

(c) The United States may use, for the management, operation, maintenance, protection and defense of the Canal, those port installations and equipment managed, operated, and maintained by the Republic of Panama which are described in paragraph 2 of Annex B of this Agreement. The Republic of Panama shall maintain such port installations and equipment in efficient operating condition.

(d) The United States is guaranteed use of the Port installations described in paragraph 3 of Annex B of this Agreement for normal maintenance of its equipment, in accordance with schedules established by the Commission or, when necessary for emergency repairs, at any time. The United States may use its employees to perform services in such installations. United States use of such installations and equipment shall be free of cost other than reimbursement for labor and services provided to the United States at rates which shall not exceed those charged the most favored customer on a commercial basis.

(e) In order to facilitate the optimum scheduling of vessel transits, the Republic of Panama shall ensure that vessels transiting the Canal receive port services at Balboa and Cristobal on a priority basis.

(f) The Republic of Panama shall control and supervise the activities to be carried out under its responsibility in the Ports of Balboa and Cristobal to ensure that such activities are compatible with the efficient management, operation, maintenance, protection and defense of the Canal. The Republic of Panama shall take the measures necessary to prevent, or to terminate, any activity that is incompatible with such purposes.

(g) In the event of emergencies relating to the protection and defense of the Canal, the Republic of Panama shall, at the request of the United States, make the installations and equipment of the Naval Industrial Reserve Shipyard available, without delay, to the United States for as long as may be necessary. In any such case, the United States shall reimburse the Republic of Panama for labor or services provided to it at rates which shall not exceed those charged the most favored customer on a commercial basis.

3. As provided in Article XIII of the Panama Canal Treaty, all right, title and interest of the United States in the property, installations and equipment of the Panama Railroad is transferred without charge to the Republic of Panama.

4. The Republic of Panama shall have the responsibility for the management, operation, and maintenance of the Panama Railroad (hereinafter referred to as the "Railroad"), subject, however, to the following terms and conditions:

(a) The Republic of Panama shall maintain the Railroad in efficient operating condition. The Railroad will continue to provide the levels and frequency of service necessary for efficient management, operation, and maintenance, and effective protection and defense of the Canal.

(b) The United States shall have the right to use and maintain the existing installations, including the 44KV electrical transmission lines and towers, and to construct, use and maintain additional installations along the Railroad right of way, and may have access thereto for such purposes.

(c) The Republic of Panama shall permit the United States to use the Railroad and its equipment, on a priority basis, for the purposes of maintaining such transmission lines and other installations, and of transporting equipment, supplies and personnel related to the management, operation, maintenance, or protection and defense of the Canal. The United States shall pay the costs resulting from such use in accordance with rates which shall not exceed those charged by the Railroad to its most favored customer on a commercial basis.

(d) Spur tracks, sidings and related equipment serving the installations in areas made available to the United States pursuant to the Panama Canal Treaty shall remain the responsibility of the United States. Railroad access to such trackage shall be subject to the approval of the responsible United States authorities.

(e) If the Republic of Panama decides, at any time, that its continued operation of the Railroad at the minimum levels of service agreed upon by the two Parties is no longer viable, the United States shall have the right to reassume management and operation of the Railroad.

5. A Ports and Railroad Committee, to be established as a subcommittee of the Coordinating Committee in accordance with paragraph 3 of Article II of this Agreement and composed of an equal number of representatives of each Party, shall be responsible *inter alia* for coordination of the activities of the Panama Canal Commission and the National Port Authority of the Republic of Panama concerning the operation of the Ports of Balboa and Cristobal and the Panama Railroad, and shall have the following functions:

(a) To consider and, upon agreement, to coordinate the termination of United States rights with respect to the use of areas or installations in, or in the vicinity of, the Ports of Balboa and Cristobal which the Republic of Panama might desire to use for port activities, or with respect to the use of areas and installations appertaining to the Railroad.

(b) To consider and, upon agreement, to coordinate any change in the use of lands or waters in the Ports of Balboa and Cristobal or in areas or installations appertaining to the Railroad, or any initiation of, change in, or termination of Port or Railroad services. Consequently, change in the use of such lands and waters and the initiation of, changes in, or termination of such services shall occur only in accordance with the decisions reached by the Ports and Railroad Committee. Until such time as the Committee agrees upon new levels and frequency of Railroad services, the levels and frequency of service scheduled for 1977 shall be maintained.

(c) To maintain adequate standards of safety, fire prevention and oil pollution. Until such time as the Committee issues new regulations, the safety, fire prevention and oil pollution standards in force prior to the entry into force of this Agreement shall remain in force.

(d) To establish procedures and mechanisms to facilitate the movement of vessels in accordance with the rights and responsibilities of the Parties set forth in paragraph 2 above.

(e) To coordinate the use by the United States of those installations specified in paragraph 3 of Annex B that are located within the Ports of Balboa and Cristobal and the activities of the National Port Authority of the Republic of Panama in these Ports.

In considering these matters, the representatives of the two Parties on the Ports and Railroad Committee shall be guided by the principle that the operation of the Ports and Railroad shall be consistent with the continued efficient management, operation, maintenance, protection and defense of the Canal.

ARTICLE VI.—REGIME OF CIVIL COORDINATION FOR HOUSING AREAS

1. As provided in Article XIII of the Panama Canal Treaty, title to all housing within the housing areas, owned by the Panama Canal Company immediately prior to the entry into force of this Agreement, is transferred to the Republic of Panama. The housing areas shall, however, continue to be dedicated, for the duration of this Agreement, to the primary purpose of housing employees of the Commission in accordance with the provisions of this Article.

2. The Republic of Panama hereby places at the disposal of the United States, without cost, the use of such housing, within the housing areas, as the United States may deem necessary for United States citizen employees and dependents throughout the duration of this Agreement. The United States may continue to manage, maintain, improve, rent and assign such housing for United States citizen employees and dependents.

3. The use of housing units beyond those required by the United States for housing United States citizen employees and dependents at the date of entry into force of this Agreement, shall pass to the Republic of Panama on that date. Within five years from the entry into force of this Agreement, the use of at least twenty percent of the housing units located in the former Canal Zone, formerly owned by the Panama Canal Company, shall have passed to the Republic of Panama. Thereafter, the use of additional units shall pass to the Republic of Panama in accordance with the following schedule:

(a) Within ten years from the entry into force of this Agreement, the use of a total of at least thirty percent of such units shall have passed.

(b) Within fifteen years, the use of a total of at least forty-five percent shall have passed.

(c) Within twenty years, the use of a total of at least sixty percent shall have passed.

4. In order to protect the interests and welfare of employees of the United States who are not United States citizen employees and who, on the date of entry into force of this Agreement, are occupying housing units, the use of which is transferred to the Republic of Panama, the Republic of Panama shall give such persons the following special treatment:

(a) The opportunity to occupy, by lease or rental, or in the event the Republic of Panama decides to sell, to acquire by purchase at reasonable prices, the units which they are occupying on the date of entry into force of this Agreement.

(b) In cases of purchase, the opportunity to obtain long-term financing arrangements.

(c) In cases where continued occupancy of a particular housing unit is not feasible, the opportunity to obtain other adequate housing within such areas at reasonable cost, on a preferential or priority basis.

5. In addition to housing its United States citizen employees and dependents, the United States may use the housing areas for other

purposes related to the management, operation and maintenance of the Canal. The housing areas may also be used for other activities complementary to or compatible with the primary purpose of housing employees of the Commission under revocable land licenses to be issued in accordance with the procedures set forth in Article IV of this Agreement.

6. In coordination with the appropriate authorities of the Republic of Panama, the Commission may continue to provide public services such as maintenance of streets, sidewalks and other public areas within the housing areas. Since the utilities systems in the housing areas are fully integrated with those of the Canal, the Commission shall, on behalf of the utilities agencies of the Republic of Panama, continue to provide utilities such as power, water, and sewers to industrial and commercial enterprises and other persons in the area, other than United States citizen employees and dependents. The utilities agencies of the Republic of Panama shall be responsible for setting rates for and billing such customers, and shall reimburse the Commission for its cost in providing such services.

7. The Coordinating Committee shall serve as the channel for consultation and coordination between the two Parties with respect to matters arising under the regime of civil coordination established in this Article.

ARTICLE VII.—WATER RIGHTS

1. The United States shall have unimpaired use, free of cost, of the waters of the Canal and of Alajuela (Madden), Gatun and Miraflores Lakes, and of the waters of their tributary streams, for the purposes of the management, operation and maintenance of the Panama Canal, including the generation of electric power, spilling to provide flood or pollution control, and the supplying of potable water, taking into account the needs of the Republic of Panama for potable water.

2. The United States may:

(a) Raise the surface of Alajuela (Madden) Lake to 260 feet above precise level datum (PLD) and of Gatun Lake to 100 feet above PLD, and lower the surfaces of these lakes down to elevations of 190 feet and 76 feet, respectively, for the purposes stated in paragraph 1 of this Article. The Parties shall consult and coordinate concerning the measures necessary to assure the supply of potable water to the Republic of Panama.

(b) Erect, operate, maintain, improve, expand, remove and replace rainfall and river gauging stations in the watersheds of the lakes and their tributaries, the data and information obtained from which shall be made available promptly to the Republic of Panama.

(c) Maintain and improve the saddle dams serving Gatun, Miraflores and Alajuela (Madden) Lakes and any new impoundment areas. The Republic of Panama agrees to take the necessary measures to prevent any activity that might endanger the stability of the saddle dams.

(d) Apply herbicides and conduct other water weed control and sanitation programs in the lakes, their watershed and tributaries.

In the conduct of these programs the United States shall take into account the environmental protection and water standards of the Republic of Panama to the extent feasible and consistent with the efficient management, operation and maintenance of the Canal.

(e) Conduct flood control operations, to include periodic flushing of the rivers, and a routine maintenance program up to the 100 foot contour line along the Chagres River between Gamboa and Madden Dam, and up to the 30 foot contour line along the Chagres River between Gatun Dam and the Caribbean Sea.

(f) Use such land and water areas as may be necessary for the purpose of constructing new dams, including the proposed Trinidad, Manguito Point, and Panama Railroad Causeway dams, and impounding such water as may be required to develop and regulate the water supply of the Canal for the purposes stated in paragraph 1 of this Article. If new dams are constructed in accordance with this Agreement, any generation of electric power in connection with such dams shall be the prerogative of the Republic of Panama in the manner agreed upon between the two Parties.

3. The Republic of Panama shall take the necessary measures to ensure that any other land or water use of the Canal's watershed will not deplete the water supply necessary for the continuous efficient management, operation or maintenance of the Canal, and shall not interfere with the water use rights of the United States in the Canal's watershed.

ARTICLE VIII.—SOCIAL SECURITY

1. Concerning Social Security and retirement benefits applicable to employees of the Commission who are not United States citizen employees, the following provisions shall apply:

(a) Such persons who are employed by the Commission subsequent to the entry into force of this Agreement shall, as of their date of employment, be covered by the Social Security System of the Republic of Panama.

(b) Such persons who were employed prior to the entry into force of this Agreement by the Panama Canal Company or Canal Zone Government and who were covered under the Civil Service Retirement System of the United States shall continue to be covered by that system until their retirement or until the termination of their employment with the Commission for any other reason.

(c) The Commission shall collect and transfer in a timely manner to the Social Security System of the Republic of Panama the employer's and employees' contributions for those of its employees who are covered by the Social Security System of the Republic of Panama.

2. Concerning health benefits applicable to employees of the Commission who are not United States citizen employees and who are covered by the Civil Service Retirement System of the United States the following provisions shall apply:

(a) For the duration of a transitional period of thirty calendar months following the entry into force of this Agreement, all such persons shall continue to be provided health insurance and medical benefits under the same general arrangements in effect prior to the entry into force of this Agreement.

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(b) At the termination of the aforementioned transitional period, none of the abovementioned persons shall be [illegible]ible to receive health or medical benefits from facilities opera[illegible] by the United States in the Republic of Panama.

(c) Such persons shall have the right, during the aforementioned transitional period, to elect either to continue their coverage under the Federal Employees' Health Benefits Plan or to terminate their coverage under that program and enroll in the Health and Maternity Benefits Program under the Social Security System of the Republic of Panama, effective upon the termination of the transitional period.

(d) The Commission shall collect and transfer in a timely manner to the Social Security System of the Republic of Panama the employer's and employees' contributions to the Health and Maternity Benefits Program of that institution for such persons who enroll in that program. The employer's contribution shall be equal to that which the employer would have paid had the employee continued under the Federal Employees Health Benefits Plan.

3. (a) Following the entry into force of this Agreement, employees of the Panama Canal Company or Canal Zone Government, regardless of their nationality, who become employees of the Republic of Panama as the result either of a transfer of a function or activity to the Republic of Panama from the Panama Canal Company or Canal Zone Government or through job placement efforts of the Commission or the Republic of Panama, shall be covered by the Social Security System of the Republic of Panama through a special regime indentical in eligibility requirements, benefits, and employer/employee contributions to the United States Civil Service Retirement System in which the employee was previously enrolled.

(b) In those instances in which an employee has been separated from employment with the Commission and is due a refund of his contributions to the Civil Service Retirement System of the United States, said refund shall, upon the written request of the employee, be transferred by the Civil Service authorities of the United States to the Social Security System of the Republic of Panama for the purpose of the employee's purchase of an equity, which shall be financially equal to the total of the amounts transferred.

(c) When such employee of the Panama Canal Company or Canal Zone Government, regardless of his nationality, is separated from his employment with the Commission as the result of the implementation of the Panama Canal Treaty and becomes an employee of the Republic of Panama as the result either of a transfer of a function or activity to the Republic of Panama from the Panama Canal Company or the Canal Zone Government or through a job placement assistance program, and elects to purchase an equity in the Social Security System of the Republic of Panama, through a special regime identical in requirements for eligibility, benefits, and employer/employee contributions to the Civil Service Retirement System of the United States in which the employee was previously enrolled, the United States shall provide an equal sum to assist the employee in acquiring such an equity, provided, however, that:

(i) The employee is not eligible for an immediate retirement annuity under the United States Civil Service Retirement System.

(ii) The employee has not elected a deferred annuity under the United States Civil Service Retirement System.

(iii) The employee has been credited with at least five years of Federal service under the United States Civil Service Retirement System.

(iv) The employee elects to withdraw the entire amount of his capitalized contributions to the Civil Service Retirement System of the United States and transfer them to the Social Security System of the Republic of Panama.

(v) The contribution provided by the United States shall be the same as the amount withdrawn by the employee from the United States Civil Service Retirement Fund and contributed by the employee to the Panamanian Social Security System.

(d) Employees eligible for an immediate annuity under the Civil Service Retirement System of the United States shall begin to receive retirement pay at the time of their termination of their employment by the Government of the United States.

4. Except as otherwise provided in the Panama Canal Treaty or this Agreement, there shall be no loss or limitation of rights, options and benefits to which employees of the Commission who were employed by the Panama Canal Company or the Canal Zone Government may be entitled under applicable laws and regulations of the United States. These rights, options and benefits include the rights, where appropriate under applicable laws and regulations of the United States, to optional or voluntary retirement, discontinued service retirement following involuntary separation, disability retirement, and deferred retirement.

5. Non-United States citizen employees of the Panama Canal Commission who were, prior to the entry into force of this Agreement, employed by the Panama Canal Company or the Canal Zone Government, and who continue to be covered by the United States Civil Service Retirement System, shall continue to be covered by United States Workmen's Compensation and may, if they so desire, continue their coverage under the Federal Employees' Group Life Insurance program in the same manner as prior to the entry into force of this Agreement.

ARTICLE IX.—ACQUISITION OF PANAMANIAN SUPPLIES AND SERVICES

1. In procuring supplies and services, the Commission shall give preference to those obtainable in the Republic of Panama. Such preference shall apply to the maximum extent possible when such supplies and services are available as required, and are comparable in quality and price to those which may be obtained from other sources. For the comparison of prices there shall be taken into account the cost of transport to the Republic of Panama, including freight, insurance, and handling, of the supplies and services which compete with Panamanian supplies and services. In the acquisition of goods in the Republic of Panama, preference shall be given to goods having a larger percentage of components of Panamanian origin.

2. Any regulations which may be necessary to carry out this preference shall be agreed upon in the Coordinating Committee.

ARTICLE X.—TELECOMMUNICATIONS

1. The Republic of Panama, in the exercise of its sovereign power over telecommunications, authorizes the United States, for the duration of this Agreement, to use communications networks and communications-electronics installations within the Canal operating areas, and the radio frequencies authorized or in use, and transportable equipment in use, immediately prior to the entry into force of this Agreement and as may be necessary for its requirements, in order to accomplish the purposes of the management, operation and maintenance of the Canal, and as the two Parties may otherwise agree. The Coordinating Committee may adopt regulations to govern the use of such transportable equipment outside of such areas.

2. The Republic of Panama also authorizes the United States to use installations such as those described in the preceding paragraph already existing outside the Canal operating areas, including those operated and maintained by the United States Forces or by contractors, which serve to accomplish the purposes of the management, operation or maintenance of the Canal, and as the two Parties may otherwise agree. The United States authorities shall have access to such installations for appropriate operation, maintenance and replacement.

3. Upon the termination of this Agreement, all telecommunication equipment and facilities necessary for purposes of operation of the Canal, which are the property of the United States, shall be transferred to the Republic of Panama. The United States, after consultation with the Republic of Panama, will institute a program to train Panamanian nationals to operate and maintain such telecommunications equipment, including ship-to-shore facilities.

4. Provided that they are available and suitable for the purpose, the Commission shall use, to the maximum extent practicable, the telecommunications services of public or private enterprise in the Republic of Panama in order to meet its growth needs, but the applicable rates shall be no less favorable than those charged to governmental agencies of the Republic of Panama.

5. The United States shall provide the Republic of Panama a list of all frequencies authorized or in use by it pursuant to this Article. This list shall be submitted through the Coordinating Committee in ascending frequency order and shall contain as a minimum information concerning the power, bandwidth, and type of emission being used in those frequencies.

6. The Republic of Panama undertakes not to authorize the use of any frequency which would interfere with those in use by or for the Commission or which it may use in the future in accordance with the Panama Canal Treaty and this Agreement.

7. All provisions regarding telecommunications in this Article shall be in accordance with the obligations of both Parties as members of the International Telecommunication Union and with the various relevant international agreements to which both are parties.

8. Any communication with the International Telecommunication Union regarding the subject matter of this Article shall be effected exclusively by the Republic of Panama.

9. The Coordinating Committee may adopt any further regulations as may be necessary to implement the provisions of this Article, including necessary technical coordination.

ARTICLE XI.—CONTRACTORS AND CONTRACTORS' PERSONNEL

1. Whenever the Commission enters into contracts for the performance of services or the procurement of supplies, it shall adhere to the preferences for Panamanian sources set forth in Article IX of this Agreement.

2. Whenever contracts are awarded by the Commission to natural persons who are nationals or permanent residents of the United States or to corporations or other legal entities organized under the laws of the United States and under the effective control of such persons, such contractors shall be so designated by the United States and such designations shall be communicated to the authorities of the Republic of Panama through the Coordinating Committee. Designated contractors shall be subject to the laws and regulations of the Republic of Panama except with respect to the special regime established by this Agreement, which includes the following obligations and benefits:

(a) The contractor must engage exclusively in activities related to the execution of the work for which he has been contracted by the Commission or related to other works or activities authorized by the Republic of Panama.

(b) The contractor must refrain from carrying out practices which may constitute violations of the laws of the Republic of Panama.

(c) The contractor shall enter and depart from the territory of the Republic of Panama in accordance with procedures prescribed for United States citizen employees in Article XII of this Agreement.

(d) The contractor must obtain a document indicating his identity as a contractor which the proper authorities of the United States shall issue when they are satisfied he is duly qualified. This certificate shall be sufficient to permit him to operate under Panamanian law as a contractor of the United States. Nevertheless, the authorities of the Republic of Panama may require the registration of the appropriate documents to establish juridical presence in the Republic of Panama.

(e) The contractor shall not be obliged to pay any tax or other assessment to the Republic of Panama or income derived under a contract with the Commission, so long as he is taxed in the United States at a rate substantially equivalent to the corresponding taxes and assessments of the Republic of Panama.

(f) The contractor may move freely within the Republic of Panama, and shall have exemptions from customs duties and other charges, as provided for United States citizen employees in Article XIV and XVI of this Agreement.

(g) The contractor may use public services and installations in accordance with the terms and conditions of Article XIII of this Agreement and, on a non-discriminatory basis, shall pay the Republic of Panama highway tolls and taxes on plates for private vehicles.

(h) The contractor shall be exempt from any taxes imposed on depreciable assets belonging to him, other than real estate, which are used exclusively for the execution of contracts with the United States.

(i) The contractor may use the services and facilities provided for in Articles X and XVIII of the Agreement in Implementation of Article IV of the Panama Canal Treaty, signed this date, to the extent such use is authorized by the United States; provided, however, that after five years from the entry into force of this Agreement, the use of military postal services by such contractors shall be limited to that related to the execution of contracts with the United States.

3. The Commission shall withdraw the designation of a contractor when any of the following circumstances occur:

(a) Completion of termination of the contracts with the Commission.

(b) Proof that during the life of the contract such contractors have engaged in the Republic of Panama in business activities not related to their contracts with the United States nor authorized by the Republic of Panama.

(c) Proof that such contractors are engaged in practices which in the view of the Republic of Panama constitute serious violations of the laws of the Republic of Panama.

4. The authorities of the United States shall notify the authorities of the Republic of Panama whenever the designation of a contractor has been withdrawn. If, within sixty days after notification of withdrawal of the designation of a contractor who entered the territory of the Republic of Panama in the capacity of a contractor, the authorities of the Republic of Panama require such contractor to leave its territory, the United States shall ensure that the Republic of Panama shall not incur any expense due to the cost of transportation.

5. The provisions of this Article shall similarly apply to the subcontractors and to the employees of the contractors and subcontractors and their dependents who are nationals or residents of the United States. These employees and dependents shall not be subject to the Panamanian Social Security system.

ARTICLE XII.—ENTRY AND DEPARTURE

1. The United States may bring into the territory of the Republic of Panama United States citizen employees and dependents for the specific purposes of the Panama Canal Treaty and as the two Parties may agree upon.

2. In order to enter or leave the territory of the Republic of Panama, such persons shall be required to bear only a valid passport and a special entry/exit permit issued by the Republic of Panama. Such documentation, upon entry into or departure from the territory of the Republic of Panama, shall be presented to the appropriate authorities of the Republic of Panama.

3. Such entry/exit permits shall authorize the bearer an unlimited number of entries into and exits from the territory of the Republic of Panama for the duration of the employment or other duties with the Commission of the bearer, or of his sponsor. Such

permits shall remain valid until such time as United States authorities notify the appropriate authorities of the Republic of Panama of the termination of the employment or duties with the Commission of the bearer, or of his sponsor.

4. The Republic of Panama agrees to issue such special entry/exit permits to the persons described in paragraph 1 of this Article, upon written request by the authorities of the United States, and to implement special procedures to ensure such expeditious issuance.

5. Whenever the status of any person described in paragraph 1 of this Article is altered so that he is no longer entitled to remain in the territory of the Republic of Panama, the authorities of the United States shall promptly notify the authorities of the Republic of Panama, and shall ensure that the special entry/exit permit in question is returned to the Republic of Panama. If requested by the Republic of Panama within a period of sixty days following such notice, the authorities of the United States shall ensure that transportation of any such person from the Republic of Panama will be provided at no cost to the Republic of Panama.

6. The persons described in paragraph 1 of this Article shall be exempted from fiscal charges relating to their entry, stay in, or departure from the territory of the Republic of Panama, except from nondiscriminatory charges established or which may be established for use of airports. Similarly, they shall be exempted from obligatory services established in favor of the Republic of Panama. They shall not acquire any right to permanent residence or domicile in the Republic of Panama.

7. United States citizen employees who enter the Republic of Panama to execute professional services exclusively for the United States, or on its behalf, shall not be subject to the licensing regimes of the Republic of Panama, but their professional activity shall be limited to such services with the United States for the specific purposes of the Panama Canal Treaty, or as the two Parties may otherwise agree.

ARTICLE XIII.—SERVICES AND INSTALLATIONS

1. The Commission, its United States citizen employees and dependents may use the public services and installations belonging to or regulated by the Republic of Panama, and the terms and conditions of use, prices, rates and tariffs and priorities shall not be unfavorable in relation to those charged other users.

2. The Commission may use the facilities and services of the United States Forces for official purposes and may establish and operate the supporting services and facilities it requires within the areas used under this Agreement, and exceptionally, with the authorization of the Republic of Panama, outside such areas.

3. The United States may furnish to United States citizen employees and dependents the services provided for in Article XVIII of the Agreement in Implementation of Article IV of the Panama Canal Treaty signed this date, and authorize their use of the facilities provided for in Article X and Article XI of that Agreement provided, however, that their use of military postal services, com-

missaries, and military exchanges may not be authorized after five years from the entry into force of this Agreement.

4. The facilities and services of the Commission may be made available, exclusively for official purposes, to other agencies of the Government of the United States operating in the Republic of Panama, including the United States Forces.

ARTICLE XIV.—MOVEMENT, LICENSES, AND REGISTRATION OF VESSELS, AIRCRAFT AND VEHICLES

1. (a) When in the performance of official duties the vessels and aircraft operated by or for the Commission may move freely through Panamanian air space and waters, without the obligation of payment of taxes, tolls, landing or pier charges or other charges to the Republic of Panama except for reimbursement for specific services requested and received and without any other impediment.

(b) Such vessels and aircraft shall be exempt from customs inspections or other inspections. Whenever they carry cargo, crews or passengers who are not entitled to the exemptions provided for in this Agreement, timely notice shall be given to the appropriate authorities of the Republic of Panama. Both Parties shall adopt procedures to ensure that the customs laws and regulations of the Republic of Panama are not violated.

2. (a)(i) Similarly, the vehicles and equipment of the Commission may, when in the performance of official duties, move freely in the Republic of Panama, without the obligation of payment of taxes, tolls or other charges to the Republic of Panama and without any other impediment. Such vehicles and equipment shall be exempt from mechanical or other inspection.

(ii) Claims arising from damage caused by the Commission to the Panamanian road network outside the Canal operating areas, in excess of the usual wear and tear by reason of time and its appropriate use, shall be settled as provided for in Article XVIII of this Agreement.

(b) Such vehicles and equipment of the Commission shall not be assessed any license or registration fees. These vehicles shall bear means of identification as may be agreed upon by the Coordinating Committee, to be issued under the authority of said Coordinating Committee and distributed by the Commission.

3. (a) The plates, individual marks and registration documents issued by the United States for vehicles, trailers, vessels and aircraft which are the property of the Commission shall be accepted by the Republic of Panama.

(b) The Republic of Panama shall recognize as sufficient the valid licenses, permits, certificates or other official classifications from the United States, possessed by operators of vehicles, vessels and aircraft which are property of the United States.

4. (a) The vehicles, trailers, vessels and aircraft belonging to the United States citizen employees or dependents shall also move freely within the Republic of Panama, in compliance with the traffic regulations and those regarding the annual mechanical inspection. The license plate fee and other obligations shall not be discriminatory.

(b) The Republic of Panama shall issue the appropriate documents of title and registration of vehicles, trailers, vessels and aircraft which are the property of United States citizen employees or dependents when the latter present title and registration issued by the federal or state authorities of the United States or by the authorities of the former Canal Zone. Applicants may retain such documents provided they leave with the authorities of the Republic of Panama a copy authenticated by the Commission, duly translated into Spanish. While the corresponding request is being processed and within a term which may not exceed ninety days after entry into force this Agreement or after the arrival of the means of transportation mentioned above in the Republic of Panama, it may be operated with the plates or distinctive marks issued by the federal or state authorities of the United States or by the authorities of the former Canal Zone.

(c) United States citizen employees and dependents who bear valid documents such as drivers' licenses, vessel operators' permits, amateur radio licenses, or licenses and classifications of air pilots issued by the federal or state authorities of the United States or by the authorities of the former Canal Zone, shall receive equivalent Panamanian licenses, permits and classifications without being subjected to new tests or payments of the new fees. The applicants may retain the licenses, permits and classifications of the United States or the former Canal Zone provided that they leave with the authorities of the Republic of Panama a copy authenticated by the Commission and duly translated into Spanish. United States citizen employees and dependents shall be permitted to drive vehicles, vessels or aircraft in the Republic of Panama with such licenses, permits and classifications during the ninety days following the entry into force of this Agreement or their first arrival in the Republic of Panama. During this period the processing of the application in the Republic of Panama for a drivers license, vessel operator's permit, or license and classification as an air pilot shall be completed.

(d) The Panamanian licenses, permits or classifications shall be valid for the period of time indicated in the Panamanian law and, during the continuous presence of the bearer in the Republic of Panama, shall, to preserve their validity, be renewed in accordance with Panamanian laws. Whenever Panamanian laws require medical certifications for the renewal of licenses, permits or classifications, the Republic of Panama shall accept the certifications issued by the medical services of the United States, provided that said certifications are submitted in Spanish translation.

(e) The Republic of Panama shall issue drivers' licenses, vessel operators' permits, and licenses and other classifications of air pilots to United States citizen employees and dependents when they do not possess valid documents. If any test is required as a prerequisite for the issuance of the documents mentioned, the Republic of Panama shall permit the interested persons to take the examination in Spanish or in English. Any material which the Republic of Panama may generally issue in preparation for such examinations shall be furnished, in Spanish or in English, as the applicant may request. The fees for such documents shall not be discriminatory.

5. The Coordinating Committee may agree on rules and procedures that may be necessary to implement this Article.

ARTICLE XV.—TAXATION

1. By virtue of this Agreement, the Commission, its contractors and subcontractors, are exempt from payment in the Republic of Panama of all taxes, fees or other charges on their activities or property.

2. United States citizen employees and dependents shall be exempt from any taxes, fees, or other charges on income received as a result of their work for the Commission. Similarly, they shall be exempt from payment of taxes, fees or other charges on income derived from sources outside the Republic of Panama.

3. United States citizen employees and dependents shall be exempt from taxes, fees or other charges on gifts or inheritance or on personal property, the presence of which within the territory of the Republic of Panama is due solely to the stay therein of such person on account of their sponsor's work with the Commission.

4. The Coordinating Committee may establish such regulations as may be appropriate for the implementation of this Article.

ARTICLE XVI.—IMPORT DUTIES

1. Except for the exemptions provided for in this Agreement, United States citizen employees and dependents shall be subject to the customs laws and regulations of the Republic of Panama.

2. All property imported for the official use or benefit of the Commission, including that imported by its contractors or subcontractors in connection with the various activities authorized under this Agreement, shall be exempt from the payment of all customs duties or other import taxes and charges and from all license requirements. The Commission shall issue a certificate, following the form adopted by the Coordinating Committee, stating that the property being imported is for these purposes.

3. Property consigned to or imported for the personal use of United States citizen employees or dependents shall be subject to the payment of import duties or other import taxes, except for the following:

(a) Furniture, household goods and personal effects imported by such persons for their private use within six months following their first arrival in the Republic of Panama.

(b) Vehicles imported by such persons for their private use. The Coordinating Committee shall establish the limitations on the quantity and frequency of additional imports of vehicles and shall authorize such importation of at least one vehicle every two years.

(c) A reasonable quantity of articles for the private use of such persons, imported as personal baggage or sent into the Republic of Panama through the mails.

(d) Such other imports as may be expressly authorized by the competent authorities of the Republic of Panama at the request of the Commission.

4. The exemptions granted in paragraph 3 of this Article apply only to cases involving the importation of articles exempted at the time of entry and shall not be construed as obligating the Republic

of Panama to reimburse customs duties and domestic taxes collected by the Republic of Panama in connection with the purchase of goods from Panamanian sources subsequent to their importation.

5. Customs inspections shall not be made in the following cases:

(a) United States citizen employees traveling on official business who enter or depart from the Republic of Panama;

(b) Official documents under official seal, and mail sent through the military postal channels of the United States;

(c) Cargo consigned to the Commission.

6. Property imported under this Article and subsequently transferred to a person who is not entitled to duty-free importation shall be subject to the payment of import duties and other taxes according to the laws and regulations of the Republic of Panama.

7. All property imported in the Republic of Panama free of customs duties and other taxes pursuant to paragraphs 2 and 3 of this Article may be exported free of customs duties, export permits, export taxes, and other assessments. All property acquired in the Republic of Panama by, or in the name of, the Commission, or acquired by United States citizen employees or dependents for their private use, may be exported free of customs duties, export licenses, and other export taxes or charges.

8. The authorities of the United States agree to cooperate with the authorities of the Republic of Panama and shall take, within their legal authority, all steps necessary to prevent the abuse of the privileges granted under this Article to United States citizen employees or dependents, which measure may include dismissal of such employees.

9. In order to prevent violations of the customs laws and regulations of the Republic of Panama, the two Parties agree as follows:

(a) The competent authorities of the United States and the authorities of the Republic of Panama shall mutually assist one another in the conduct of investigations and the collection of evidence.

(b) The authorities of the United States shall take, within their legal authority, all necessary measures to ensure that articles subject to seizure by or in the name of the customs authorities of the Republic of Panama are delivered to these authorities.

(c) The authorities of the United States shall take, within their legal authority, all necessary measures to ensure the payment by United States citizen employees, and dependents, of such import duties, taxes, and fines as may be duly determined by the authorities of the Republic of Panama.

10. Vehicles and articles belonging to the Commission that are seized from a person by the authorities of the Republic of Panama in connection with a violation of its customs or tax laws or regulations shall be delivered to the competent authorities of the Commission.

11. The Coordinating Committee will constitute the means of communication and information between the two Parties with regard to matters pertaining to the implementation of this Article.

ARTICLE XVII.—SURVEYS

The United States may carry out topographic, hydrographic, agrologic and other surveys (including the taking of aerial photographs) within the area made available for the use of the United States pursuant to this Agreement and within the watershed basin of Gatun, Alajuela (Madden) and Miraflores Lakes. Surveys in other areas of the Republic of Panama shall require authorization from the Republic of Panama and shall be carried out in the manner agreed upon in the Coordinating Committee. The Republic of Panama shall, at its option, designate a representative to be present during such surveys. The United States shall furnish a copy of the data resulting from such surveys to the Republic of Panama at no cost.

ARTICLE XVIII.—CLAIMS

1. (a) Each Party shall settle claims against it for damage to any property owned and used by the other Party in the following circumstances:

(i) If the damage was caused by an employee of the Government, against which the claim is made, in the performance of his official duties; or

(ii) If the damage arose from the use of any vehicle, vessel or aircraft owned and used by the said Government, provided either that the vehicle, vessel or aircraft causing the damage was being used for offical purposes, or that the damage was caused to property being so used.

(b) If it is not settled in due course, the claim may be pursued through diplomatic channels. Both Parties hereby waive the collection of any claims for an amount less that B/. 1400 or $1400 U.S., whichever may be the currency of greater value.

2. In cases of maritime salvage, each Party waives its claims against the other if the vessel or cargo salved was the property of the other Party and was used for official purposes.

3. For the purposes of this Article, any vessel chartered, requisitioned or seized in prize by a Party shall be considered its property (except to the extent that the risk of loss or liability is assumed by some other person than such Party).

4. United States citizen employees shall be subject to the jurisdiction of the civil courts of the Republic of Panama except in matters which arise from the performance of their official duty. In cases in which payment has been accepted in full satisfaction of the claim, the civil courts of the Republic of Panama shall dismiss any proceeding concerning such matter.

5. Non-contractual claims arising from damages caused in the performance of their official duties by employees of the Commission to third parties shall be presented by the injured party through the Coordinating Committee to the appropriate authorities of the Commission for settlement. The authorities of the Republic of Panama may submit advice and recommendations on Panamanian law to the claims authorities of the Commission for the use in evaluating liability and amount of damages. The Commission shall assure payment of the appropriate damages if any are due.

6. Contractual claims against the Commission shall be settled in accordance with the dispute clause of the contracts, and in the absence of such clause through presentation of claims to the Commission.

7. The Commission shall require contractors and subcontractors referred to in Article XI of this Agreement to obtain appropriate insurance to cover the civil liabilities that may be incurred in the territory of the Republic of Panama as a result of acts or omissions done in the performance of official duty by their employees. The Coordinating Committee shall establish the general standards for such insurance.

8. The authorities of both Parties shall cooperate in the investigation and procurement of evidence for a fair disposition of claims under this Article.

ARTICLE XIX.—CRIMINAL JURISDICTION

1. The Republic of Panama shall exercise, in the manner herein indicated, its jurisdiction over United States citizen employees and dependents with respect to all offenses arising from acts or omissions committed by them within the territory of the Republic of Panama and punishable under the laws of the Republic of Panama.

2. Concerning offenses committed by United States citizen employees or dependents that are punishable under the laws of both Parties, the authorities of the United States may request the Republic of Panama to waive its jurisdiction in favor of the authorities of the United States. Said authorities shall, in their request, state the reasons therefor, and the republic of Panama shall give favorable consideration to such requests in the following cases:

(a) If the offense arises out of an act or omission done in the performance of official duty. In such cases, when requested by the authorities of the Republic of Panama or when the authorities of the United States may deem it necessary, the latter shall issue a certificate establishing that the offense originated from an act or omission occurring in the performance of official duty. The Republic of Panama shall consider this certificate as sufficient proof for the purposes of this paragraph, or shall request a review by the Coordinating Committee, within ten days of the date of receipt of the certificate. The Coordinating Committee shall complete its review within ten days from the date of receipt of the request, except when more thorough consideration may be necessary, in which case the Coordinating Committee shall complete its review within thirty days. A substantial deviation from the duties which a person is required to perform in a specific mission shall generally indicate an act or omission not occurring in the performance of official duty and, consequently, the authorities of the United States will not consider it necessary to issue a certificate of official duty.

(b) If the offense is solely against the property or security of the United States and is committed in a Canal operating area or in a housing area. It is understood that offenses against the security of the United States include: treason or sabotage against the United States, espionage or violation of any law relating to official secrets of the United States or to secrets relating to the national defense of the United States.

3. In any case in which the authorities of the Republic of Panama waive jurisdiction to the United States, or in cases in which the offense constitutes a crime under the laws of the United States, but not under the laws of the Republic of Panama, the accused United States citizens employee or dependent shall be tried outside of the territory of the Republic of Panama.

4. (a) The authorities of the Republic of Panama shall notify the authorities of the United States as promptly as possible of the arrest of any United States citizen employee or dependent.

(b) The following procedures shall govern the custody of an accused United States citizen employee or dependent over whom the Republic of Panama is to exercise its jurisdiction:

(i) If the accused is detained by the authorities of the Republic of Panama he shall, except when charged with murder, rape, robbery with violence, trafficking in drugs, or crimes against the security of the Panamanian State, be handed over on request to the authorities of the United States in whose custody he shall remain until completion of all judicial proceedings and thereafter until custody is requested by authorities of the Republic of Panama for the execution of a sentence.

(ii) When charged with murder, rape, robbery with violence, trafficking in drugs, or crimes against the security of the Panamanian State, the accused will remain in the custody of the authorities of the Republic of Panama. In these cases, the authorities of the Republic of Panama shall give sympathetic consideration to requests for custody by the authorities of the United States.

5. (a) The authorities of the United States shall give full consideration to special requests made by the authorities of the Republic of Panama regarding conditions of custody of any detainee in the custody of the United States.

(b) When the accused is in the custody of the authorities of the United States, he must, upon request by the authorities of the Republic of Panama, be made available to them for the purposes of investigation and trial. This obligation of the United States to ensure the appearance of an accused United States citizen employee, or dependent shall be deemed to satisfy the bail requirement set by the laws of the Republic of Panama.

6. (a) The authorities of the United States and of the Republic of Panama shall assist each other in carrying out all necessary investigations of offenses and in the collection and production of evidence, including the seizure and, in proper cases, the delivery of objects connected with an offense and the appearance of witnesses as necessary.

(b) The authorities of the United States and of the Republic of Panama shall, upon request by the other Party, inform each other of the status of cases referred to under the provisions of this Article.

7. As is provided in the laws of the Republic of Panama, a United States citizen employee or a dependent who has been convicted by a Panamanian court shall not be subject to the death penalty or to any form of cruel and unusual punishment or treatment.

8. When an accused United States citizen employee or dependent has been tried in accordance with the provisions of this Article by the authorities of the United States or by the authorities of the Re-

public of Panama and has been acquitted, or has been convicted and is serving, or has served, his sentence, or has been pardoned, he shall not be tried again for the same offense within the territory of the Republic of Panama.

9. Whenever an accused United States citizen employee or a dependent is tried by the authorities of the Republic of Panama he shall be entitled to the procedural guarantees listed in Annex C of this Agreement.

10. During the detention by the authorities of the Republic of Panama of a United States citizen employee or a dependent the authorities of the Republic of Panama shall permit members of his immediate family to visit him weekly. Material and medical assistance (such as food, clothing and comfort items) which the authorities of the United States and members of his immediate family may consider desirable, and any other assistance which is in accordance with or allowed by Panamanian prison regulations, may be provided to him on such visits.

11. The Coordinating Committee will constitute the channel of communication and information between the two Parties with regard to matters pertaining to the implementation of this Article.

ARTICLE XX.—GENERAL PROVISIONS

1. The activities of the United States in the Republic of Panama shall be carried out with adequate attention to public health and safety, and consequently, within the areas made available for the use of the United States under this Agreement, the authorities of the United States shall have the right to take appropriate sanitation measures. The authorities of the United States shall cooperate with the authorities of the Republic of Panama for these purposes.

2. United States citizen employees and dependents may bear private arms in accordance with applicable Panamanian laws and regulations.

3. The Commission shall establish regulations to provide for the handling of matters under its competence in the English and Spanish languages, as appropriate.

ARTICLE XXI.—DURATION

This Agreement shall enter into force simultaneously with the entry into force of the Panama Canal Treaty, signed this date, and shall remain in force throughout the period that the aforesaid Treaty remains in force.

Done at Washington, this 7th day of September 1977, in duplicate, in the English and Spanish languages, both being equally authenic.

ANNEX A.—CANAL OPERATING AREAS, HOUSING AREAS, ACCESSORY FACILITIES AND INSTALLATIONS, AND ANCHORAGES

The Canal operating areas, housing areas, accessory facilities and installations, and anchorages, the use of which is made available by the Republic of Panama to the United States by this Agreement, are described below and identified, but not definitively, on the maps attached hereto and referenced herein. When areas or installations are depicted on more than one map of different scales, the identification on the map with the largest scale shall be controlling. More precise identifications and exact boundaries shall be agreed upon as soon as practicable by the Coordinating Committee established in Article II of this Agreement, after a joint survey to be conducted by representatives of the two Parties. When the aforementioned identifications have been completed and agreed upon, they shall be controlling as to the boundaries of the installations and areas described in this Annex.

1. (a) The Canal operating areas are described generally as follows:

(i) A continuous area generally following the course of the Panama Canal and generally contiguous to it, running from the Atlantic Ocean to the Pacific Ocean, and including the Atlantic entrance, Gatun Locks, dam, spillway and power station, portions of Gatun Lake, Gaillard Cut, Pedro Miguel Locks, Miraflores Lake, Miraflores Locks, spillway filtration plant and power station, and the Pacific entrance, as well as the land and water areas encompassing them.

(ii) Certain areas not contiguous to the Canal, including the Brazos Brook area, the Gatun tank area, the Madden Dam and power station area, the Corozal/Cardenas area, and the Sosa hill area.

The Canal operating area described generally above, with the two exceptions hereinafter referred to, is identified on the map which is attached hereto as Attachment No. 1 in the manner indicated on the legend thereof. Although not so identified on the referenced map, the land and water areas which lie beneath the Thatcher Ferry Bridge and any new bridge that is constructed along the Panama/Arraijan right of way, to the extent that they are within the boundaries of the Canal operating area described in subparagraph 1(a)(i), above, are included in, and are parts of, that Canal operating area.

(iii) Barro Colorado Island, in the event and at such time as the Smithsonian Tropical Research Institute or an organization of similar purpose discontinues its activities there. This island is identified by name on the map attached hereto as Attachment No. 1.

(iv) Summit Naval Radio Station, at such time as use of the area is no longer required by the United States Forces. For purposes of this provision, this area is identified by name on the map attached hereto as Attachment No. 1.

(b) The Canal Zone Penitentiary shall cease to be a part of the Canal operating areas three years following the entry into force of this Agreement. For the purposes of this provision, the approximate center of this area is located at Coordinate 441069 on the map attached hereto as Attachment No. 1.

(c) The following areas shall cease to be a part of the Canal operating area five years following the entry into force of this Agreement:

(i) The Mount Hope warehouse area; and

(ii) The Mount Hope motor transportation area.

For the purposes of this provision, the Mount Hope warehouse area is identified on the map attached hereto as Attachment No. 2, SK 529-25-14A, in the manner indicated on the legend thereof, and the Mount Hope motor transportation area is identified on the map attached hereto as Attachment No. 3, SK 529-25-13A, in the manner indicated on the legend thereof.

(d) The following installations not contiguous to the Canal operating areas described in subparagraph 1(a) above shall be subject to the provisions of the Panama Canal Treaty and this Agreement applicable to the Canal operating areas:

(i) Retirement Office (449-X);
(ii) Sanitation Buildings (428, 428-X);
(iii) Health Bureau Official Quarters (286, 288, 286-G);
(iv) Pump House, Chilled Water (278);
(v) Treasurer's Office (287, 287-X);
(vi) Central Employment Office (363);
(vii) Payroll Branch Office (365);
(viii) Personnel Bureau Office (366);
(ix) Grounds Maintenance Building (361);
(x) Distribution Substation (367);
(xi) District Court Building (310);
(xii) Community Welfare (Red Cross) (0610-B);
(xiii) Motor Transportation Facilities (0625-A through K, 0630-C);
(xiv) Grounds Maintenance Office (0630-B);
(xv) Sewage Treatment Plant (0626, 0626-A, 0626-B);
(xvi) Grounds Maintenance Building (0586-X); and
(xvii) Maintenance Field Shop (234).

The installations which are described immediately above are identified on the map attached hereto as Attachment No. 4, SK 529-5-1, in the manner indicated on the legend thereof.

(xviii) Administration Building (101);
(xix) Balboa Filtered Water—Pump Station (634);
(xx) Community Service Office Building (635);
(xxi) Training Center (0600, 0602, 0604);
(xxii) Ancon Water Reservoir;
(xxiii) Grounds Maintenance Buildings (106, 108-X); and
(xxiv) Garage (628-X).

The installations which are described immediately above are identified on the map attached hereto as Attachment No. 5, SK 529-25-2, in the manner indicated on the legend thereof.

(xxv) Buildings (725, 726);
(xxvi) Community Health Center Building (721);
(xxvii) Maintenance Shop (1437);
(xxviii) Garage Buildings (0900, 711-X, 761-X, 786-X, 787-X, 788-X, 789-X, 797-X, 1435);
(xxix) Storage Sheds and Toilets (1559-X, 0773, 0849, 1435-X);
(xxx) Community Service Youth Facilities (0910);
(xxxi) Sewage Pump Station (0755);
(xxxii) Magistrates Court (803);
(xxxiii) Balboa Police Station (801, 801-R, 801-S, 801-T, 801-U); and
(xxxiv) Water Tanks—Ancon Hill.

The installations which are described immediately above are identified on the map attached hereto as Attachment No. 6, SK 529-25-3, in the manner indicated on the legend thereof.

(lxvi) Printing and Duplicating Center (911); and

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(lxvii) Marine Traffic Control Center (909, 910).

The installations which are described immediately above are identified on the map attached hereto as Attachment No. 8, SK 529-25-5, in the manner indicated on the legend thereof.

(lxviii) Records Storage (42-D);
(lxix) Warehouse and Office (42-G, 42-F);
(lxx) Quarters Maintenance Shop (5052);
(lxxi) Toilets and Storage (5546);
(lxxii) Storage and Warehouse (5553);
(lxxiii) Surveying Office and Storage (5250);
(lxxiv) Community Service Center (5051, 5051-X);
(lxxv) Diablo Power Substation (5300);
(lxxvi) Office Building (5140); and
(lxxvii) Storage Warehouse (42-E).

The installations which are described immediately above are identified on the map attached hereto as Attachment No. 9, SK 529-25-6, in the manner indicated on the legend thereof.

(lxxviii) Water Tanks;
(lxxix) Water Pump Station (6219);
(lxxx) Toilets and Storage (6423);
(lxxxi) Community Welfare—AA (6550); and
(lxxxii) Los Rios Power Substation (6464).

The installations which are described immediately above are identified on the map attached hereto as Attachment No. 10, SK 529-25-7, in the manner indicated on the legend thereof.

(lxxxiii) Telephone Exchange (52);
(lxxxiv) Communication Field Office (53);
(lxxxv) Fire Station (62);
(lxxxvi) Community Service Center (65-A) and B.S.A. (729);
(lxxxvii) Gas Station, Noncommercial (57);
(lxxxviii) Housing Office, Maintenance Shops (58);
(lxxxix) Toilet and Storage (77-A, 0277-X, 332);
(xc) Sanitation Building (64); and
(xci) Community Health Center (63).

The installations which are described immediately above are identified on the map attached hereto as Attachment No. 11, SK 529-25-10, in the manner indicated on the legend thereof.

(xcii) Grounds Maintenance Offices, Toilets and Storage (40-A, 40-G, 141;
(xciii) Garages (29, 29-A, 108, 140);
(xciv) Telephone Exchange (102-X);
(xcv) A.R.S. (71, 74, 104, 135, 150, 208, 210, 220, 233-X, 236-X, 262, 355, 373, UX-1, UX-2, UX-3) and B.S.A. (122);
(xcvi) Public Toilet (385);
(xcvii) Fire Station (161);
(xcviii) Community Service Center (206); and
(xcix) Gatun Power Substation (100).

The installations which are described immediately above are identified on the map attached hereto as Attachment No. 12, SK 529-25-11, in the manner indicated on the legend thereof.

(c) Construction Division Office (7998);
(ci) Quarters Maintenance Shop and Office (7999);
(cii) Toilets and Storage (8038-X, 8471);
(ciii) Community Service Center (8040);

(civ) Sewage Pump Station (8140); and

(cv) Community Service Center Building Garage (8040-X).

The installations which are described immediately above are identified on the map attached hereto as Attachment No. 13, SK 529-25-12, in the manner indicated on the legend thereof.

(cvi) Engineering Survey Building (9212);

(cvii) Telephone Building (9214); and

(cviii) Fire Station Building (9100).

The installations which are described immediately above are identified on the map attached hereto as Attachment No. 14, SK 529-25-8, in the manner indicated on the legend thereof.

(cix) Filtered Water Pump House (308); and

(cx) Paraiso Power Substations.

The installations which are described immediately above are identified on the map attached hereto as Attachment No. 15, SK 529-25-9, in the manner indicated on the legend thereof.

(cxi) Motor Transportation Facilities (5046, 5063, 5064, 5064-A, 5065, 5067, 5077); and

(cxii) Canal/IRHE Power Interconnect Station.

The installations which are described immediately above are identified on the map attached hereto as Attachment No. 16, SK 529-25-13, in the manner indicated on the legend thereof.

(cxiii) Mount Hope Warehouse Complex (7018, 7020, 7021, 7022, 7025-A, 7025-B, 7025-C, 7030, 7031, 7032, 7033);

(cxiv) Fire Station (7029);

(cxv) Mount Hope Water Filtration Plant (7035, 7037 and Water Tanks 1 and 2);

(cxvi) Air Conditioning and Refrigeration Maintenance (7024); and

(cxvii) Electrical Field Facilities (7051, 7051-A, 7051-B, 7051-C, 7051-D, 7056).

The installations which are described immediately above are identified on the map attached hereto as Attachment No. 17, SK 529-25-14, in the manner indicated on the legend thereof.

(cxviii) Tugboat Personnel Parking Area and Shed;

(cxix) Harbor Master Office and Boat House (1013);

(cxx) Administration Building (1105); (3339);

(cxxi) Dredging Division Office and Dock (3339);

(cxxii) Maintenance Facilities (1707, 1707-C, 1707-D, 1707-E, 1709, 1726, 1728, 1730, 1708);

(cxxiii) Telephone Exchange (1907);

(cxxiv) Signal Station—Top of Pier 6;

(cxxv) Tug Landings at ends of Piers 6 and 7; and

(cxxvi) Police Training Center (1107).

The installations which are described immediately above are identified on the map attached hereto as Attachment No. 18, SK 529-25-15, in the manner indicated on the legend thereof.

(cxxvii) Buildings (22, 100, 82);

(cxxviii) Toilets and Storage (53);

(cxxix) Community Service Center and Telephone Exchange (1140);

(cxxx) Coco Solo Power Substation (3);

(cxxxi) Maintenance Shop (130); and

(cxxxii) Imhoff Tanks (86, 91).

The installations which are described immediately above are identified on the map attached hereto as Attachment No. 19, SK 529-25-16, in the manner indicated on the legend thereof.

(cxxxiii) Toilet and Storage (0349).

The installation which is described immediately above is identified on the map attached hereto as Attachment No. 20, SK 529-25-18, in the manner indicated on the legend thereof.

(cxxxiv) Amador Causeway and roadway south from southern tip of Fort Amador (Coordinates 601873 to 627847);

(cxxxv) Naos Island landing facilities, including dispatcher building, piers, float, breakwater and access roadway (Coordinate 611858);

(cxxxvi) Flamenco Island Signal Station (Coordinate 627847);

(cxxxvii) Farfan Spillway (Coordinate 577868);

(cxxxviii) Madden Wye Facilities (101, 102, 104, 105, 106, 107, 108, 109, 111, 112, 113, 114, 127, 128, 129, 149, 172, 173) (Coordinate 4449016);

(cxxxix) Summit Power Substation (Coordinate 495013);

(cxl) Summit Explosive Storage Facilities (1, 2, and 3) (Coordinate 411030);

(cxli) 44 KV Power Transmission Line (Coordinates 519183 to 495013);

(cxlii) Coco Solito Water Meterhouse (6201) (Coordinate 229323);

(cxliii) South Coco Solo Power Substation (1116) (Coordinate 232345).

The approximate center or locations of the installations described immediately above are identified by the accompanying coordinates, as located on the map attached hereto as Attachment No. 1.

(e) The following installations that are described in subparagraph 1(d) above shall cease to be installations subject to the provisions of this Agreement applicable to the Canal operating areas as stated below:

(i) Thirty calendar months following the entry into force of this Agreement:

(A) The Balboa Police Station Complex (801, 801-R, 801-S, 801-T and 801-U).

(B) The Balboa Magistrates Court (803).

For the purposes of this provision, the Balboa Police Station complex and the Balboa Magistrates Court are identified on the map attached hereto as Attachment No. 21, SK 529-25-3A, in the manner indicated on the legend thereof.

(ii) Three years following the entry into force of this Agreement:

(A) The Ancon District Court (310).

(B) The Cristobal Police Training Center (1107).

For the purposes of this provision, the Ancon District Court is identified on the map attached hereto as Attachment No. 22, SK 529-25-1A, in the manner indicated on the legend thereof, and the Cristobal Police Training Center is identified on the map attached hereto as Attachment No. 23, SK 529-25-15A, in the manner indicated on the legend thereof.

(iii) At such time as the United States ceases to use such installations:

(A) The Balboa Commissary Installation (725 and 726).

(B) The Coco Solo Commissary installation (100 and 22).

For the purposes of this provision, the Balboa Commissary Installation is identified on the map attached hereto as Attachment No. 21, SK 529-25-3A, and the Coco Solo Commissary installation is identified on the map attached hereto as Attachment No. 24, SK 529-25-16A.

(iv) At such times the following areas and installations are required by the Republic of Panama for expansion of the Port of Balboa.

(A) The Pier 20 area (including 57 and 57-X).

(B) The Scrap Yard area (less 42).

For the purposes of this provision, these areas and installations are identified on the map attached hereto as Attachment No. 25, SK 529-25-4A in the manner indicated on the legend thereof.

2. The Housing Areas are as follows:

(a) Coco Solo, as identified on the map attached hereto as Attachment No. 19, SK 529-25-16, in the manner indicated on the legend thereof.

(b) France Field (Gold Hill), as identified on the map attached hereto as Attachment No. 20, SK 529-25-18, in the manner indicated on the legend thereof.

(c) Margarita, as identified on the map attached hereto as Attachment No. 13, SK 529-25-12, in the manner indicated on the legend thereof.

(d) Mindi, as located on the map attached hereto as Attachment No. 1 (approximate center at Coordinate 202286).

(e) Gatun, as identified on the map attached hereto as Attachment No. 12, SK 529-25-11, in the manner indicated on the legend thereof.

(f) Gamboa, as identified on the map attached hereto as Attachment No. 11, SK 529-25-10, in the manner indicated on the legend thereof.

(g) Cardenas (Commission housing), as identified on the map attached hereto as Attachment No. 26, SK 529-25-7A, in the manner indicated on the legend thereof.

(h) Los Rios, as identifed on the map attached hereto as Attachment No. 10, SK 529-25-7, in the manner indicated on the legend thereof.

(i) Corozal, as identified on the map attached hereto as Attachment No. 10, SK 529-25-7, in the manner indicated on the legend thereof.

(j) Diablo, as identified on the map attached hereto as Attachment No. 9, SK 529-25-6, in the manner indicated on the legend thereof.

(k) Balboa (La Boca), as identified on the maps attached hereto as Attachments Nos. 6 and 8, SK 529-25-3 and SK 529-25-5, in the manner indicated on the legends thereof.

(l) Balboa Heights, as identifed on the map attached hereto as Attachment No. 5, SK 529-25-2, in the manner indicated on the legend thereof.

(m) Ancon, as identified on the map attached hereto as Attachment No. 4, SK 529-25-1, in the manner indicated on the legend thereof.

(n) 18 housing units located within the area identified as the "Summit Naval Radio Station" on the map attached hereto as Attachment No. 1, in the event, and at such time as the area ceases to be a Military Area of Coordination.

(o) Cardenas (FAA housing), as identified on the map attached hereto as Attachment No. 27, SK 529-25-7AA, in the manner indicated on the legend thereof, in the event and at such time as the use of said housing area by the Federal Aviation Administration terminates and the area ceases to be an area subject to a separate bilateral agreement.

3. The accessory installations and facilities outside the areas made available for the use of the United States which the United States may continue to use are as follows:

(a) aids to navigation;
(b) triangulation stations;
(c) hydrographic stations and telemetering stations;
(d) spoil dump areas;
(e) ship beaching areas;
(f) saddle dams, dikes and water control structures;
(g) piers and docks;
(h) bank stability surveillance and protection systems;
(i) support facilities; and
(j) other existing facilities and installation required for the management, operation, or maintenance of the Canal (such as maintenance facilities, utility lines, and pipelines).

4. The Anchorages are as follows:

(a) The Pacific anchorage area, as identified on navigational chart No. 21603, attached hereto as Attachment No. 28, in the manner indicated on the legend thereof.

(b) The Atlantic anchorage area, as identified on navigational chart No. 26068, attached hereto as Attachment No. 29, in the manner indicated on the legend thereof.

5. The areas for expansion of the Anchorages are as follows:

(a) The Pacific anchorage expansion area, as indentified on the navigation chart attached hereto as Attachment No. 28, in the manner indicated on the legend thereof.

(b) The Atlantic anchorage expansion area, as identified on the navigational chart attached hereto as Attachment No. 29, in the manner indicated on the legend thereof.

(c) The Limon Bay anchorage expansion area, as identified on the navigational chart attached hereto as Attachment No. 29, in the manner indicated on the legend thereof.

6. The following land and water areas outside of the areas made available for the use of the United States pursuant to the Panama Canal Treaty are also subject to the land use licensing procedure set forth in Article V of this Agreement as stated:

(a) As of the entry into force of this Agreement:

(i) The Chagres River betwen Gamboa and Madden Dam to the 100 foot contour line. The Chagres River between Gatun Dam and the Caribbean Sea to the 30 foot contour line.

(ii) Near to the Atlantic entrance to the Canal:

—Within Limon Bay, those areas west of the Canal's channel that are not within the Canal operating area.

—Outside Limon Bay, for a distance of 3 kilometers on each side of the center line of the Canal's channel from the breakwater north for a distance of 3 nautical miles.

(iii) Near the Pacific entrance of the Canal:

—Along the east bank of the Canal from Balboa Port south to the Amador causeway, 30 miles inland from the high water mark.

—Along that portion of the Amador causeway extending from the southern limit of the Fort Amador mainland to Naos Island, the area northeast of the causeway for a distance of 1 kilometer.

—The water areas within a distance of 3 kilometers each side of the center line of the Canal channel from a point (Coordinate 603855) near Naos Island extending southeast paralleling the Canal center line for a distance of 3 nautical miles.

—The water areas between the easterly boundary of the Howard Air Force Base-Fort Kobbe Complex and the Canal channel.

(b) Three years after the entry into force of this Agreement: Canal Zone Penitentiary area (Gamboa), as described in subparagraph 1(b) above.

ANNEX B.—PORTS OF BALBOA AND CRISTOBAL

The areas and installations of the Ports of Balboa and Cristobal, as well as certain specific use rights and guarantees granted by the Republic of Panama to the United States in connection therewith, are described below and, in the case of the said areas and installation, are identified, but not definitively, on the maps attached hereto and referenced herein and on various maps attached to Annex A. When areas or installations are depicted on more than one map of different scales, the identification on the map with the largest scale shall be controlling. More precise identifications and exact boundaries shall be agreed upon as soon as practicable and in the same manner as described in Annex A. When the aforementioned identifications have been completed and agreed upon, they shall be controlling as to the boundaries of the installations and areas described in this Annex.

1. The boundaries of the Ports of Balboa and Cristobal are identified on the maps attached hereto as Attachments Nos. 1 and 2 respectively, in the manner indicated on the legend thereof.

2. The United States shall have the right to use, for the management, operation, maintenance, protection and defense of the Canal, the following port installations and equipment which the Republic of Panama shall maintain in efficient operating condition:

(a) Docks 6, 7, 14, 15, 16, 17, and Pier 18, including fendering systems, capstans, camels, bollards, bits, and wearing surfaces, railroad spurs, crane tracks, signal lights, water lines, sewers, compressed air lines, power cables, telephone cables, duct lines and material handling equipment, tunnels, and switch gear.

(b) Facilities.

(i) Drydock No. 1, including all of the following facilities, equipment and utilities required to support its operation:

(A) Drydock Miter Gates and two electric motors and mechanical systems for opening and closing the gates.

(B) Fifty keel blocks and one hundred and fifty hauling blocks, including all hauling block tracks, chain sheaves, brackets, hauling chains, and blocking dogs.

(C) Ten capstans.

(D) Flooding/dewatering tunnels.

(E) Four dewatering pumps, two drainage pumps, and one salt water pump.

(F) All valves, bulkheads, and screens in the flooding and dewatering system.

(G) Three stationary 1,600 CFM Joy Air Compressors.

(H) One elevator.

(I) Sixteen portable rain sheds.

(J) Dock 8.

(K) All electrical switch gear, lighting and power systems, water and compressed air piping, and hydraulic control systems located in Building 29, the Drydock and Dock 8.

(ii) Buildings:

Numbers	Description
1	Machine shop.
1-C	Facilities building (storage).
1-D	Launch repair.
1-G	Pipe shop.
1-H	Central toolcrib. Hose and blower room; power tool repair shop.
29	Pump and compressor plant.
32	Drydock block storage shed.
17, 18, 20, 25, and 30	Toilet and locker rooms.

All utility tunnels, electrical air and water systems which serve these buildings.

(c) Machine Tools and Equipment:

(i) Cranes D-4 (50-tons, steam) and D-19-N (30-ton, diesel-electric) and all trackage.

(ii) Portable 5-ton electric cranes (US-28 and 52).

(iii) Overhead Cranes: Two in bldg. 29; two in Bldg. 1.

(iv) Scaffolding and gangways.

(v) Bolt cutting and threading machine, M-569-N.

(vi) Grinding machine, M-723-N.

(vii) Band saws: T-222-N, T-227-N, XT-627, N-27, and BR-65.

(viii) Lathes: M-267, M-539-N, M-820-N, L-121-N, L-132, XM-729-N, XM-741-N, XM-808-N.

(ix) Milling machines: M-575-N, L-99-N, L-100-N, and L-118-N.

(x) Planers: M-178 and M-824-N.

(xi) Drill presses: M-578-N, M-701, and M-709-N.

(xiii) Wood lathe, N-36.

(xiii) Wood planer, N-24.

(xiv) Wood jointer, M-197-N.

(xv) Jointer-Planer, BR-64.

(xvi) Wood saw, M-29-N.

(xvii) Bench saw, BR-66.
(xviii) Disc sander, N-32.
(xix) Surfacing machine, L-207.
(xx) Threading machines, L-194 and T-223-N.
(xxi) Shear, XT-290.
(xxii) Dynamometer, L-172.
(xxiii) Bolt-heading machine, F-174-N.
(xxiv) Grinding machines, XW-599-N and XM-758.
(xxv) Bending machine, T-231-N.
(xxvi) Mortising machine, XW-707-N.
(xxvii) Router and boring machine, XW-820-N.
(xviii) Edge planer, XB-872.
(xxix) Table saw, SX-572-N.

3. The United States shall have the right, on a guaranteed basis, to use the following installations and port services in accordance with the Commission's maintenance schedules or for emergency repairs:

(a) The facilities listed in paragraph 2(b) of this Annex.

(b) The machine tools and equipment listed in paragraph 2(c) of this annex.

(c) Access.

(i) Paved yard area adjacent to Drydock No. 1 and to the buildings listed in subparagraph 2(b)(ii) of this Annex.

(ii) Required water access for floating equipment and vessels from canal operating area to Drydock No. 1 includes water depth sufficient to clear gate sill (−39.5 feet PLD) and sufficient clearance between Docks 7 and 8 to permit safe entry.

ANNEX C.—PROCEDURAL GUARANTEES

A United States citizen employee, or a dependent, prosecuted by the Panamanian authorities shall be entitled to the following procedural guarantees:

(a) To a prompt and speedy trial.

(b) To be informed, in advance of trial, of the specific charge or charges made against him.

(c) To be confronted with and to be allowed to cross-examine the witnesses against him.

(d) To have evidence and witnesses in his favor presented. The authorities shall submit such evidence and call the witnesses if they are within the Republic of Panama.

(e) To have legal representation of his own choice for his defense during all investigative and judicial phases from the time of submission to questioning and throughout the entire proceedings; or, if he indicates he lacks funds for his defense, to be defended by the appropriate public defender.

(f) To have the services of a competent interpreter if he considers it necessary.

(g) To communicate with a representative of the Government of the United States to have such a representative present, as an observer, at his trial.

(h) Not to be held guilty on account of any act or omission which did not constitute a criminal offense under the law of the Republic of Panama at the time it was committed.

(i) To be present at his trial which shall be public. However, without prejudice to the procedural guarantees in this Annex, persons whose presence is not necessary may be excluded, if the court so decides for reasons of public orders or morality.

(j) In his proceedings to have the total burden of proof laden upon the Public Prosecutor or the prosecution.

(k) To have the court consider only voluntary confessions and evidence properly obtained in accordance with the requirements of the law.

(l) Not to be compelled to testify against or otherwise incriminate himself.

(m) Not to be required to stand trial if he is not physically or mentally fit to stand trial and participate in his defense.

(n) Not to be tried or punished more than once for the same offense.

(o) To have the right to appeal a conviction or sentence.

(p) To have credited to any sentence for confinement his entire period of pretrial custody.

(q) Not to be subject to the application of martial law or trial by military courts or special tribunals.

(r) To enjoy all other guarantees and rights provided for in the Constitution, Judicial Code and other laws of the Republic of Panama.

AGREED MINUTE TO THE AGREEMENT IN IMPLEMENTATION OF ARTICLE III OF THE PANAMA CANAL TREATY

1. With reference to paragraph 2 of Article I, it is agreed that skilled, technical or professional employees of the Commission, who are nationals of States other than the United States or the Republic of Panama, and their dependents, shall have the same rights and privileges as United States citizen employees and dependents under the Panama Canal Treaty and the Agreement in Implementation of Article III of that Treaty (hereinafter referred to as "the Agreement"). Presence in connection with employment by the Commission shall not be considered as residence in the Republic of Panama. However, this provision shall not apply to nationals of third States recruited within the Republic of Panama after the entry into force of the Agreement.

2. With reference to Article II, it is contemplated that the United States may be represented on the Coordinating Committee by a senior United States citizen official or employee of the Commission and that the Republic of Panama will be represented by a citizen of the Republic of Panama of corresponding level or rank.

3. With reference to Article VI:

(a) It is understood that during the five years following the entry into force of the Panama Canal Treaty, certain United States nationals employed by the United States Forces, such as employees of medical and educational facilities, and the dependents, shall be considered to be United States citizen employees and dependents.

(b) It is understood that a housing unit is an individual family apartment, bachelor apartment or bachelor room in a single or multidwelling building. The minimum percentages of housing units, the use of which will pass to the Republic of Panama, have

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been calculated on the basis of an estimated inventory of approximately 4,300 housing units owned by the Panama Canal Company immediately prior to entry into force of the Agreement.

4. With reference to paragraph 3 of Article XIII, concerning educational services that may be furnished to United States citizen employees and their dependents, it is understood that the United States may continue to furnish such services to dependents of any person, regardless of nationality, in those cases in which such dependents were enrolled in the school system of the former Canal Zone Government prior to the entry into force of the Agreement.

5. With reference to paragraph 2 of Article XIX, it is understood that, as a matter of general policy, the Republic of Panama will waive jurisdiction to the United States, at its request, in cases arising under that paragraph.

6. With reference to paragraph 4(b) of Article XIX, the five offenses under Panamanian law referred to are understood to be:

(a) Murder—the intentional killing of one person by another.

(b) Rape—the commission of an act of sexual intercourse by violence or threat and without consent with a person not his spouse, or with a person who is not capable of resisting by reason of mental or physical illness, or with a minor less than twelve years old.

(c) Robbery with violence—the act of appropriating an object of value belonging to someone else with the purpose of depriving its owner of his possession and deriving benefit from it, using violence against such person or a third person present at the scene of the act.

(d) Trafficking in drugs—the unlawful sale, exchange, or transfer for gain of marihuana, hashish, heroin, cocaine, amphetamines, barbiturates, or L.S.D.

(e) Crimes against the security of the Panamanian State—espionage, sabotage, or terrorism directed against the constituted powers or authorities of the Republic of Panama, with the purpose of overthrowing them.

7. With reference to Annex A, it is understood that the United States may continue to provide utility services, in coordination with the appropriate authorities of the Republic of Panama, for certain of those areas and facilities transferred to the Republic of Panama as provided in Article XIII of the Panama Canal Treaty. It is further understood that since the utilities systems serving many of these areas and facilities are fully integrated with those of the Canal, the United States may, on behalf of the utilities agencies of the Republic of Panama, continue to provide utilities such as power, water, and sewers to private persons or to agencies of the Government of Panama in such areas. It is further understood that the utilities agencies of the Republic of Panama will be responsible for setting rates for and billing such of its customers, and will reimburse the United States for its cost in providing such services.

8. With reference to subparagraph 1(a) of Annex A:

(a) it is understood that the Republic of Panama may construct (i) an Atlantic Coast Highway through a right-of-way to be agreed upon by the Parties, at such time as the Republic of Panama is prepared to begin construction of that highway, and (ii) a new highway on the Pacific side of the Isthmus through a right-of-way to be agreed upon by the Parties at such time as the Republic of Panama is prepared to begin construction of that highway. It is further understood that the bridge over the Canal, in each case, will be constructed sufficiently high to as not to interfere with the operation of the Canal or with any improvements that may be made to the Canal.

(b) it is understood that the National Port Authority of the Republic of Panama will have the right to use, free of cost, the marine bunkering facilities located on Pier 16, Cristobal, for discharging petroleum products, subject always to the right of the United States to use those facilities on a priority basis. It is further understood that, in connection with its use of those facilities, the Republic of Panama will not alter or modify Pier 16, the marine bunkering facilities or the utilities thereon, except as mutually agreed, and will reimburse the United States for any damage caused as a result of the Republic of Panama's use of such facilities.

9. With reference to paragraphs 1(d) (xxxiii) and 1(e)(i)(A) of Annex A, it is understood that the United States shall make available to the Republic of Panama appropriate areas within the Balboa Police Station Complex for police liaison purposes for the thirty-month transition period following the entry into force of the Agreement. It is understood that at the end of that period, the provisions of paragraph 2(b) of Article XIII of the Panama Canal Treaty shall apply. With reference to paragraph 1(d)(cxx) of Annex A, it is understood that the United States shall, if requested by the Republic of Panama, make available to the Republic of Panama appropriate areas within the Cristobal Police Station (located in Building 1105) for police liaison purposes for the aforesaid thirty-month period and, thereafter, for general police functions.

10. With reference to subparagraph 1(e)(iv) (A) and (B) of Annex A, it is understood that at such time as Pier 20 and the Scrap Yard area referred to therein cease to be areas subject to the provisions of the Agreement applicable to the Canal operating areas, the Republic of Panama will provide comparable and acceptable pier space in Balboa Harbor and scrap yard areas for the use of the Commission at no charge.

11. With reference to paragraph 2 of Annex A, it is understood that the United States may continue to operate and maintain noncommercial recreational and community service areas and facilities for the benefit of all occupants of the housing areas and all employees of the Commission, and their dependents, on a nondiscriminatory basis. It is further understood that recreational and community service activities conducted in such areas and facilities will be noncommercial, and there will be no user charges associated therewith unless otherwise agreed by the Parties.

12. With reference to subparagraph 3(d) of Annex A, it is understood that such spoil dump areas include the spoil dump areas identified on the navigational charts attached thereto as Attachments 28 and 29, in the manner indicated on the legend thereof.

13. With reference to subparagraph 3(j) of Annex A, it is understood that the Republic of Panama will not undertake or permit any construction, excavation or other activity which may endanger or encroach upon underground or aboveground installations, in-

cluding pipes, ducts, culverts, cables, microwave paths and transmission lines, except as may be otherwise agreed in the Coordinating Committee.

14. With reference to Attachment Nos. 1 and 6 of Annex A, it is understood that the Republic of Panama shall continue to use the Balboa Fire Station (Building 703, Attachment No. 6) and the Coco Solito Fire Station (Building 96, Attachment No. 1, Coordinates 231328) as fire protection installations throughout the life of the Agreement, unless otherwise agreed by the Parties. The provisions of paragraph 2(a) of Article XIII of the Panama Canal Treaty apply to such fire stations. It is further understood that the United States, which may continue to provide fire protection of Commission areas and installations, and the Republic of Panama, which is responsible for fire protection generally throughout its territory, will review periodically the most effective allocation of both Parties' fire protection resources, and, if appropriate, the United States will transfer to the Republic of Panama such other fire stations as are excess to its needs. The Republic of Panama shall continue the use of any installations so transferred as fire protection installations for the life of the Agreement, unless otherwise agreed. It is understood also that both Parties will cooperate fully in ensuring effective and efficient delivery of fire protection services throughout the vicinity of the Canal.

15. With reference to Attachments 1, 14 and 15 to Annex A, it is understood that prior to authorizing any new use of or activities in the townsites of Pedro Miguel (Attachment No. 14) or Paraiso (Attachment No. 15) or (a) the land areas within a distance of 3 kilometers each side of the center line of the Canal channel from a point (Coordinate 603855) near Naos Island extending southeast paralleling the Canal center line for a distance of 3 nautical miles or (b) the land areas between the easterly boundary of the Howard Air Force Base-Fort Kobbe Complex and the Canal channel, the Republic of Panama shall ensure that the Commission concurs in writing that the proposed use or activity would be compatible with the efficient management, operation, maintenance, protection and defense of the Canal. It is further understood that the Republic of Panama (a) shall control and supervise the activities to be carried out under its responsibility in the aforementioned townsites and areas to ensure that such activities are compatible with such purposes, and (b) shall take the measures necessary to prevent, or to terminate, any activity that, in the opinion of the Commission, is incompatible with such purposes. It is further understood that, with reference to the aforementioned townsites of Pedro Miguel and Paraiso, the provisions of paragraphs 4 and 6 of Article VI of the Agreement will apply thereto.

16. With reference to Attachment No. 4 to Annex A, it is understood that for thirty calendar months following the entry into force of the Agreement the United States may, for activities related to the management, operation or maintenance of the Panama Canal, continue to use certain office space located in the Civil Affairs Building (Building No. 0610), title to which is transferred to the Republic of Panama upon the entry into force of the Agreement as provided in Article XIII of the Panama Canal Treaty. It is further understood that, notwithstanding paragraph 4(xiii) of the Annex to

the Panama Canal Treaty, the Commission may use such building to operate and maintain the museum and library collections which are located therein upon the entry into force of the Agreement.

17. With reference to Attachment No. 6 to Annex A:

(a) it is understood that the Republic of Panama shall ensure that recreational and entertainment activities comparable to those currently provided will continue to be provided in the Bowling Alley, Cafeteria, and Theater located in Balboa (Buildings 717-X, 727, and 727-C) throughout the life of the Agreement, unless otherwise agreed by the Parties. The provisions of paragraph 2(a) of Article XIII of the Panama Canal Treaty apply to such facilities.

(b) it is understood that the Republic of Panama shall continue use of the Balboa Post Office (Building 724) and the Gamboa Post Office (Building 61) as postal service installations throughout the life of the Agreement, unless otherwise agreed by the Parties. The provisions of paragraph 2(a) of Article XIII of the Panama Canal Treaty apply to such post offices.

18. With reference to Attachment 7 to Annex A, it is understood that the Republic of Panama will permit access to and scheduled use of the baseball and softball fields located in the Port of Balboa by organized leagues until such time as the area in which such fields are located is converted to other use. It is further understood that at such time as any of such fields is converted to other use, the Republic of Panama will make available, without charge, other areas suitable for the use of organized leagues.

19. With reference to Attachment No. 18 of Annex A, it is understood that appropriate areas in the Cristobal Administration Building (Building 1105) shall be made available to the postal service system of the Republic of Panama for postal service purposes.

20. With reference to Attachment 1 to Annex B:

(a) It is understood that the Ports and Railroads Committee will not approve any activity within the area which constituted the Corozal Antenna Field, prior to the entry into force of the Agreement, which would require construction of piers, docks, quays, or any similar structure along the banks of the Canal or within 250 feet of such banks.

(b) It is understood that the installation, shipyards, buildings, and equipment within said buildings, which make up the Naval Industrial Reserve Shipyard and which, in accordance with Article V of the Agreement, shall be made available to the United States in event of a defense emergency, include the following facilities: Drydocks 1, 2, and 3; Docks 7, 8, 12, and 13; Cranes D—4 and D—19-N; Buildings 1, 1A, 1C, 1D, 1G, 1H, 1J, 30, 17, 31, 20, 18, 2, 2A, 3, 4, 4B, 29, 25, 16, 11, 23, 12, 29B, 12A, 12X, and 13; the transfer table and capstans. It is understood, however, that only those of the above facilities which have been transferred to the Republic of Panama shall be deemed to be included within the Naval Industrial Reserve Shipyard for the purposes of paragraph 2(g) of Article V of the Agreement.

(c) It is understood that the Republic of Panama will permit the American Legion and the Balboa Yacht Club to continue their operations in Building 1370 and the adjacent facilities, unless otherwise agreed in the Ports and Railroads Committee.

21. With reference to Attachment 2 to Annex B, it is understood that the United States may use Pier 8 in the Port of Cristobal for berthing and handling cargo for the SS Cristobal, or for any successor to it, on a priority basis.

AGREEMENT IN IMPLEMENTATION OF ARTICLE IV OF THE PANAMA CANAL TREATY

Whereas, the Republic of Panama and the United States of America have signed on this date the "Panama Canal Treaty" to regulate the system pertaining to the operation, maintenance, administration, protection and defense of the Panama Canal in harmony with the Charter of the United Nations;

Whereas, the Republic of Panama shall permit the United States to use certain parts of its territory for the protection and defense of the Panama Canal, with the participation of the Panamanian Armed Forces as is established under Article IV of the "Panama Canal Treaty" subscribed under Article IV of the "Panama Canal Treaty" subscribed on this date;

Whereas, in order to determine the system applicable to the members of the Armed Forces of the United States, the civilian component, and dependents, accompanying them during their stay in the Republic of Panama for the specific purposes of the Panama Canal Treaty, and as the two Governments may otherwise agree, and for the purpose of regulating the use of the defense sites;

Pursuant to the "Panama Canal Treaty," the following has been agreed upon:

ARTICLE I.—DEFINITIONS

(1) Defense Sites: Those areas, and the installations within them, which the Republic of Panama by this Agreement permits the United States Forces to use for the specific purposes of the Panama Canal Treaty, and as the two Governments may otherwise agree, a list of which is set forth in paragraph (1) of Annex A of this Agreement.

(2) United States Forces: The land, sea and air armed services of the United States of America.

(3) Members of the Forces: The military personnel of the United States Forces on active duty who are in the Republic of Panama for the specific purposes of the Panama Canal Treaty, and as the two Governments may otherwise agree.

This term includes those military personnel of the United States Forces on active duty and present in the Republic of Panama on temporary duty from other stations, or on board aircraft or vessels of the United States which are in transit or visiting on official business.

Solely for purposes of the privileges authorized under Articles X, XI, and XVIII of this Agreement, this term also includes those military personnel of the United States Forces on active duty, assigned to other stations and present in the Republic of Panama on official leave.

(4) Members of the civilian component:

(a) Nationals of the United States, to whom United States passports have been issued, who are employed by the United

States Forces and assigned to the defense sites in the Republic of Panama.

(b) Nationals of third countries employed by the United States forces, who are assigned to the defense sites and who are not habitual residents of the Republic of Panama.

(c) Other categories of persons which could be agreed upon as exceptions by the two Governments.

This term includes personnel on temporary duty and civilian crew members of aircraft and vessels of the United States Forces which are in transit or visiting on official business.

For the purpose of this definition, presence in connection with employment by the United States Forces shall not be considered as residence in the Republic of Panama.

(5) Dependents: The spouse and children of members of the Forces or of the civilian component, and other relatives who depend on them for their subsistence and who habitually live with them under the same roof.

ARTICLE II.—NON-INTERVENTION PRINCIPLE

The members of the Forces or the civilian component, dependents, and designated contractors of the United States Forces shall respect the laws of the Republic of Panama and shall refrain from any activity inconsistent with the spirit of this Agreement. Especially, they shall abstain from all political activity in the Republic of Panama as well as from any interference in the internal affairs of the Republic.

The United States shall take all measures within its authority to ensure that the provisions of this Article are fulfilled.

ARTICLE III.—JOINT COMMITTEE

(a) A Joint Committee shall be established which shall start to function upon the entry into force of this Agreement and which shall be composed of a representative of the Republic of Panama and of the United States of America at the level and rank to be agreed upon by both Governments, and who may have one or more deputies, on a parity basis.

(2) The Joint Committee shall perform the functions specifically indicated by the provisions of this Agreement, and others entrusted to it by both Governments concerning the implementation of this Agreement.

(3) The Joint Committee shall determine its rules of procedure within the spirit of this Agreement and may designate the subcommittees it may deem necessary for the fulfillment of its functions.

(4) The Joint Committee shall be organized in such a manner that it may meet promptly and at any time upon request of the representative of the Republic of Panama or of the United States. The Joint Committee shall send a monthly report on its activities to the Governments of the Republic of Panama and the United States.

(5) The Joint Committee shall refer to the two Governments, for their consideration through appropriate channels, any matters which it has not been able to resolve.

ARTICLE IV.—USE OF DEFENSE SITES

(1) The United States Forces may use the defense sites listed in paragraph (2) of Annex A of this Agreement. Moreover, Annex A includes a list of military areas of coordination which may be used by the Armed Forces of both Governments in accordance with Annex B of this Agreement.

(2) Annex A of this Agreement shall be examined every two years or upon the request of either Government, and shall be revised to reflect any agreed elimination or change in areas. The United States Forces may notify the Republic of Panama at any time that the use of a defense site or a military area of coordination or of a specified portion thereof, or other right granted by the Republic of Panama is no longer required. Under such circumstances, said use or other right shall cease on the date determined by the two Governments.

(3) The United States Government may, at any time, remove from the Republic of Panama, or dispose of in the Republic of Panama in accordance with conditions to be agreed upon by the two Governments, all equipment, installations, material, supplies or other removeable property brought into, acquired or constructed in the Republic of Panama by or for the United States Forces. Property left by the United States in a defense site after the date the use of such site by United States Forces ceases shall, unless agreed otherwise by the two Governments, become the property of the Republic of Panama.

(4) At the termination of any activities or operations under this Agreement, the United States shall be obligated to take all measures to ensure insofar as may be practicable that every hazard to human life, health and safety is removed from any defense site or a military area of coordination or any portion thereof, on the date the United States Forces are no longer authorized to use such site. Prior to the transfer of any installation, the two Governments will consult concerning: (a) its conditions, including removal of hazards to human life, health and safety; and (b) compensation for its residual value, if any exists.

(5) The United States Forces shall have responsibility for control of entry to the defense sites. The Republic of Panama may share in the exercise of this control, in a manner to be agreed upon in the Joint Committee. Necessary signs, in Spanish and English, requested by the United States Forces through the Joint Committee will be erected outside the defense sites, expressing that the sign is erected under the authority of the Republic of Panama.

(6) Since the Republic of Panama is a signatory to the Latin American Denuclearization Treaty (Tlatelolco), the United States shall emplace no type of nuclear armament on Panamanian territory.

(7) The Joint Committee will constitute the means of communication and information between the two Governments with regard to matters pertaining to the implementation of this Article.

ARTICLE V.—FLAGS

(1) All of the territory of the Republic of Panama, including the defense sites, shall be under the flag of the Republic of Panama

and, consequently, within such sites the Panamanian flag shall always occupy the position of honor. Within the defense sites, the flag of the United States shall also be flown jointly with the Panamanian flag. The Joint Committee shall determine the manner of displaying the flags.

(2) At the entrances, outside the defense sites, only the flag of the Republic of Panama will be flown.

ARTICLE VI.—CRIMINAL JURISDICTION

(1) The authorities of the Republic of Panama shall have jurisdiction over members of the Forces or the civilian component, and dependents, with respect to offenses arising from acts or omissions committed in the Republic of Panama and punishable under the laws of the Republic of Panama. Nevertheless, the Republic of Panama permits the authorities of the United States to exercise criminal jurisdiction within defense sites, and, consequently, to have the primary right to exercise jurisdiction over acts which are criminal acts according to United States law, and which are committed within such sites by members of the Forces or the civilian component, or dependents.

(2) The Republic of Panama also permits the authorities of the United States to have the primary right to exercise criminal jurisdiction over members of the Forces or the civilian component, and dependents, for any offense committed outside the defense sites, in the following cases:

(a) If the offense is solely against the property or security of the United States. It is understoood that offenses against the security of the United States include: treason or sabotage against the United States, espionage or violation of any law relating to official secrets of the United States or to secrets relating to the national defense of the United States.

(b) If the offense is solely against the person or property of a member of the Forces or the civilian component, or a dependent.

(c) If the offense arises out of an act or omission done in the performance of official duty, in which case, when requested by the Panamanian authorities or when the military authorities of the United States may deem it necessary, the military authorities of the United States shall issue a certificate establishing that the offense originated from an act or omission occurring in the performance of official duty. Panama shall consider this certificate as sufficient proof for the purposes of this paragraph, or shall request a review by the Joint Committee within ten days from the receipt of the certificate. The Joint Committee shall complete its review within ten days from the receipt of the request, except when more thorough consideration is required, in which case the Joint Committee shall complete its review within thirty days.

A substantial deviation from the duties which a person is required to perform in a specific mission shall generally indicate an act or omission not occurring in the performance of official duty, and, consequently, the military authorities of the United States will not consider it necessary to issue a certificate of official duty.

(3) The provisions of this Article notwithstanding, the Republic of Panama shall always reserve the right to exercise jurisdiction over

members of the civilian component and dependents who are Panamanian nationals or habitual residents of Panama.

(4) The authorities of the Government having the primary right to exercise jurisdiction over an offense shall give sympathetic consideration to any request from the authorities of the other Government for permission to exercise jurisdiction. Such requests may be discussed in the Joint Committee.

(5)(a) The appropriate authorities of the Republic of Panama and of the United States shall assist each other in the arrest of members of the Forces or the civilian component, and dependents, and in their delivery to the authority which is to have custody in accordance with the provisions of this Article.

(b) The authorities of the Republic of Panama shall notify the authorities of the United States as promptly as possible of the arrest of any member of the Forces or the civilian component, or a dependent.

(c) The following procedure shall govern the custody of an accused member of the Forces or the civilian component, or a dependent, over whom the Republic of Panama is to exercise jurisdiction:

(i) If the accused is detained by the United States authorities, he shall, except when charged with murder, rape, robbery with violence, trafficking in drugs, or crimes against the security of the Panamanian State remain with such authorities pending the conclusion of all judicial proceedings and thereafter until custody is requested by the authorities of the Republic of Panama for the execution of a sentence.

(ii) If the accused is detained by the authorities of the Republic of Panama he shall, except when charged with murder, rape, robbery with violence, trafficking in drugs, or crimes against the security of the Panamanian State, be handed over on request to the United States authorities in whose custody he shall remain until completion of all judicial proceedings and thereafter until custody is requested by authorities of the Republic of Panama for the execution of a sentence.

(iii) When charged with murder, rape, robbery with violence, trafficking in drugs, or crimes against the security of the Panamanian State, the accused shall be handed over to Panamanian authorities upon their request, or if already in their custody, shall remain with them. In these cases the authorities of the Republic of Panama shall give sympathetic consideration to requests for custody by the United States authorities.

(6)(a) The United States authorities shall give full consideration to special requests regarding conditions of custody made by the authorities of the Republic of Panama.

(b) When the accused is in the custody or has been delivered into the custody of the United States authorities he must, upon request by the authorities of the Republic of Panama, be made available to them for the purposes of investigation and trial. This obligation of the United States to ensure the appearance of an accused member of the Forces or the civilian component, or a dependent, will be deemed to satisfy the bail requirement set by the laws of the Republic of Panama.

(7)(a) The authorities of the Republic of Panama and the United States shall assist each other in carrying out all necessary investigations of offenses and in the collection and production of evidence, including the seizure and, in proper cases, the delivery of objects connected with an offense and the appearance of witnesses as necessary.

(b) The authorities of the Republic of Panama and the United States shall, upon request by the other Government, inform each other of the status of cases referred to under the provisions of this Article.

(8) The authorities of the United States shall not carry out a death sentence in the Republic of Panama. As is provided in the laws of the Republic of Panama, a member of the Forces or the civilian component, or a dependent, who has been convicted by a Panamanian court shall not be subject to the death penalty or to any form of cruel and unusual punishment or treatment.

(9) When an accused member of the Forces or the civilian component, or a dependent, has been tried in accordance with the provisions of this Article by the authorities of the Republic of Panama or by authorities of the United States and has been acquitted, or has been convicted and is serving, or has served, his sentence, or has been pardoned, he shall not be tried again for the same offense within the territory of the Republic of Panama. However, nothing in this paragraph shall prevent the military authorities of the United States from trying a member of the Forces for any violation of rules of discipline arising from an act or omission which constituted an offense for which he was tried by the authorities of the Republic of Panama.

(10) Whenever a member of the Forces or the civilian component, or a dependent, is tried by the Panamanian authorities, he shall be entitled to the procedural guarantees listed in Annex D of this Agreement.

(11) At any time during the detention by the authorities of the Republic of Panama of a member of the Forces or the civilian component, or a dependent, the Panamanian authorities shall permit the military authorities of the United States to visit said member or dependent. Members of the immediate family may visit him weekly. Material and medical assistance (such as food, clothing and comfort items) which the United States authorities and members of his immediate family may consider desirable, and any other assistance which is in accordance with or allowed by Panamanian prison regulations, may be provided to him on such visits.

(12) The Joint Committee will constitute the means of communication and information between the two governments with regard to matters pertaining to the implementation of this Article.

ARTICLE VII.—CIVILIAN EMPLOYMENT

The following principles shall govern civilian employment by the United States Forces:

(1) In order to set forth their rights and obligations as the employer, the United States forces shall draw up regulations which shall contain the terms, conditions and prerequisites for all categories of their civilian employees. These regulations shall be provided to the Republic of Panama through the Joint Committee.

(2) In conformity with the principles of the labor laws of the Republic of Panama, such regulations shall establish employment preferences in all levels for Panamanian applicants possessing the requisite skills and qualifications. Accordingly, the United States Forces shall endeavor to ensure that the number of Panamanian nationals employed by them in relation to the total number of civilian employees will conform to the proportion established under Panamanian law. Similarly, the terms, conditions and prerequisites for the employment of Panamanian personnel shall conform with the general principles contained in the labor laws of the Republic of Panama.

(3) All civilian employees of the United States Forces, except those who are nationals of the Republic of Panama or who have obtained permanent resident status therein, shall be subject to a system of periodic rotation which will limit their period of employment by the United States Forces in the Republic of Panama. The regulations providing for such rotation shall be provided to the Republic of Panama through the Joint Committee.

(4) With regard to wages, there shall be no discrimination on the basis of nationality, sex or race. Payments by the United States Forces of additional remunerations to persons of any nationality, including Panamanian citizens, who are recruited outside of Panama and must therefore change their place of residence, shall not be considered to be discrimination for the purposes of this Article.

(5) The United States Forces shall take the measures called for under the laws of the Republic of Panama with regard to the application of the tax and social security laws to their employees who are subject to Panama's taxation and social security system, including withholding of tax or social security payments from their salaries.

ARTICLE VIII.—AQUISITION OF PANAMANIAN SUPPLIES AND SERVICES

(1) The United States Forces shall give preference to the procurement of supplies and services obtainable in the Republic of Panama. Such preference shall apply to the maximum extent possible when such supplies and services are available as required, and are comparable in quality and price to those which may be obtained from other sources. For the comparison of prices there will be taken into account the cost of transport to the Republic of Panama, including freight, insurance and handling, of the supplies and services. In the acquisition of goods in the Republic of Panama, preference shall be given to goods having a larger percentage of components of Panamanian origin.

(2) Any regulations which may be necessary to carry our preference shall be agreed upon in the Joint Committee.

ARTICLE IX.—TELECOMMUNICATIONS

(1) The Republic of Panama, in the exercise of its sovereign power over its telecommunications, authorizes the United States Forces to use the communications networks and communications-electronics installations within the defense sites, and to use the radio frequencies and transportable equipment as may be neces-

sary for their requirements, in order to accomplish the specific purposes of the defense of the Canal, and as the two Governments may otherwise agree. The Joint Committee may adopt regulations to govern the use of such transportable equipment outside of the defense sites.

Any use presently being exercised of such networks, installations, frequencies and equipment, for purposes other than those herein authorized, shall be subject to the provisions contained in the Panama Canal Treaty, including those relating to any separation of nonmilitary telecommunications that may be deemed necessary.

(2) The Republic of Panama also authorizes the United States Forces to use installations such as those described in the preceding paragraph already existing outside the defense sites, which serve to accomplish the purposes of the defense of the Canal, and as the two Governments may otherwise agree.

Those already existing installations outside the defense sites may be guarded by authorities of the Republic of Panama. The United States Forces shall have access to such installations for appropriate operation, maintenance, and replacement.

(3) Provided that they are available and suitable for the purpose, the United States Forces shall use, to the maximum extent possible, the telecommunications services of the Republic of Panama in order to meet their needs, but the applicable rates shall be no less favorable than those charged to governmental agencies of the Republic of Panama.

(4) The United States Forces shall provide the Government of the Republic of Panama a list of all frequencies authorized or in use by the United States Forces. This list shall be submitted through the Joint Committee in ascending frequency order and shall contain as a minimum the power, bandwidth, and type of emission.

(5) The Republic of Panama undertakes not to authorize the use of any frequency which would interfere with those in use by or for the United States Forces or which they may use in the future in accordance with the Panama Canal Treaty and this Agreement.

(6) The Republic of Panama authorizes the United States Forces to use codes, ciphers and other secure cryptographic means necessary for the specific purposes of the defense of the Panama Canal, and as the two Governments may otherwise agree.

(7) All provisions regarding telecommunications in this Article shall be in accordance with the obligations of both Governments as members of the International Telecommunication Union and the various relevant international agreements to which both Governments are signatories.

(8) Any communication with the International Telecommunication Union regarding the subject matter of this Article shall be effected exclusively by the Republic of Panama.

(9) The radio and television services of the United States Forces operating within the Republic of Panama, will:

(a) Announce at the start and termination of each day's broadcast that the emissions are authorized by the Republic of Panama; and

(b) In television programs originating locally, not use announcers appearing in military uniform.

(10) The Joint Committee may adopt any further regulations as may be necessary to implement the provisions of this Article, including necessary technical coordination.

ARTICLE X.—MILITARY POST OFFICES

(1) The United States may establish, maintain and operate, within the defense sites, military post offices for the exclusive use of the United States Forces, the members of the Forces or the civilian component, and dependents, and for the use of such other persons and agencies as may be agreed upon as exceptions by the two Governments through the Joint Committee. Such post offices shall transmit mail only between themselves or between themselves and other United States post offices.

(2) The United States Forces shall take all necessary measures to prevent the unauthorized use of the military post offices. The Panamanian authorities shall periodically inform the authorities of the United States, through the Joint Committee, of all applicable provisions of Panamanian laws, and the United States Forces shall, within their legal capacity, ensure that such provisions are complied with.

(3) The military post offices in the Republic of Panama shall not have direct representation before any international postal organization.

(4) The Republic of Panama may establish post offices within the defense sites, the location of which shall be agreed upon in the Joint Committee, for the transmission of mail between the defense sites and any other areas not authorized to the military post offices by this Agreement.

ARTICLE XI.—COMMISSARIES, MILITARY EXCHANGES AND OTHER SERVICE INSTALLATIONS

(1) The United States may establish, regulate and use within the defense sites, commissaries, military exchanges, military banking facilities, credit unions, recreational, social and athletic facilities, schools, sanitation and medical facilities, and other categories of service facilities as may be periodically agreed upon by the two Governments through the Joint Committee, for the exclusive use of the members of the Forces or the civilian component, and dependents, and for such other persons as may be agreed upon by the two Governments as exceptions through the Joint Committee. These service facilities and their activities such as the import, purchase, sale and distribution of merchandise, medicine and services, shall be free of taxes, duties, liens, licenses, fees and other charges imposed by the Republic of Panama or any of its political subdivisions.

In order to take advantage of existing installations, the United States Forces may continue to use those installations already in existence outside of the defense sites, which are specified in paragraph (3) of Annex A.

(2) The military banking facilities shall be branches or agencies of banking entities duly authorized to engage in the banking business in Panama. The Government of the Republic of Panama may authorize the installation and operation within the defense sites, at

locations agreed upon by the Joint Committee, of branches or agencies of Banco Nacional or other official banking entities of the Republic of Panama.

(3) It is the express objective and purpose of both Governments that the articles and services sold or provided at the commissaries and military exchanges be for the exclusive use of authorized persons. To that end the United States Forces shall, upon request, inform the Panamanian authorities, through the Joint Committee, as to the classification, nature and quantity of certain articles and services sold or provided at such establishments.

(4) With respect to the preceding paragraph, the Republic of Panama and the United States shall jointly take all the necessary measures to prevent the unauthorized use of such services and the abuse by those who are authorized. Such measures shall include the obtaining of pertinent information and the carrying out of any verifications that may be necessary by Panamanian authorities. The procedure to be followed for these purposes shall be agreed upon by the Joint Committee.

(5) The Government of the United States shall apply appropriate disciplinary sanctions to the members of the Forces or the civilian component, and dependents, or other persons authorized as exceptions who abuse the privileges granted in this Article and commit violations in that respect. In such cases, the United States authorities shall give sympathetic consideration to requests from the Panamanian Government to exercise jurisdiction.

(6) The service facilities referred to in the Article shall grant to Panamanian supplies and services the preference referred to in Article VIII.

ARTICLE XII.—CONTRACTORS AND CONTRACTORS' PERSONNEL

(1) Whenever contracts are required by the United States Forces for the performance of services or the procurement of supplies, the United States Forces shall adhere to the preferences for Panamanian sources set forth in Article VIII of this Agreement.

(2) Whenever contracts are awarded by the United States Forces to natural persons who are nationals or permanent residents of the United States or to corporations or other legal entities organized under the laws of the United States and under the effective control of such persons, such contractors shall be so designated by the United States Forces and such designations shall be communicated to the Panamanian authorities through the Joint Committee. Such contractors shall be subject to the laws and regulations of the Republic of Panama except with respect to the special regime established by this Agreement, which includes the following obligations and benefits:

(a) The contractor must engage exclusively in activities related to the execution of the work for which he has been contracted by the United States Forces, or related to other works or activities authorized by the Republic of Panama.

(b) The contractor must refrain from carrying out practices which may constitute violations of the laws of the Republic of Panama.

(c) The contractor shall enter and depart from the territory of the Republic of Panama in accordance with procedures prescribed for members of the civilian component in Article XIII of this Agreement.

(d) The contractor must obtain a certificate of professional identity which the proper authorities of the United States Forces shall issue when they are satisfied he is duly qualified. This certificate shall be sufficient to permit him to operate under Panamanian law as a contractor of the Forces. Nevertheless, the Panamanian authorities may require the registration of the appropriate documents to establish juridical presence in the Republic of Panama.

(e) The contractor shall not be obliged to pay any tax or other assessment to the Republic of Panama on income derived under a contract with the United States Forces as long as he is taxed at a substantially equivalent rate in the United States.

(f) The contractor may move freely within the Republic of Panama, and shall have exemptions from customs duties and other charges, as provided for members of the civilian component in Articles XV and XVII of this Agreement.

(g) The contractor may use public services and installations in accordance with the terms and conditions of Article XIV of the Agreement, but shall pay no-discriminatory highway tolls and taxes on plates for private vehicles.

(h) The contractor shall be exempt from any taxes imposed on depreciable assets belonging to him, other than real estate, which are used exclusively for the execution of contracts with the United States Forces.

(i) The contractor may use the services and facilities provided for in Articles X and XVIII of this Agreement to the extent such use is authorized by the United States Forces.

(3) The United States Forces shall withdraw the designation of a contractor when any of the following circumstances occur:

(a) Upon completion or termination of the contracts with the United States Forces.

(b) Upon proof that such contractors are engaged in business activities in the Republic of Panama other than those pertaining to the United States Forces, without authorization of the Republic of Panama.

(c) Upon proof that such contractors are engaged in practices which in the view of the Republic of Panama constitute serious violations of the applicable laws of the Republic of Panama.

(4) The authorities of the United States shall notify the authorities of the Republic of Panama whenever the designation of a contractor has been withdrawn. If, within sixty days after notification of the withdrawal of the designation of a contractor who entered Panama in the capacity of a contractor, the authorities of the Republic of Panama require such contractor to leave its territory, the United States Government shall ensure that the Republic of Panama shall not incur any expense due to the cost of transportation.

(5) The provisions of the Article shall similarly apply to the subcontractors and to the employees of the contractors and subcontractors and their dependents who are nationals or residents of the

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United States. These employees and dependents shall not be subject to the Panamanian Social Security system.

ARTICLE XIII.—ENTRY AND DEPARTURE

(1) The United States may bring into the territory of the Republic of Panama members of the Forces or the civilian component, and dependents, for the specific purposes of the Panama Canal Treaty, and as the two Governments may otherwise agree.

(2)(a) In order to enter or leave the territory of the Republic of Panama, the members of the Forces shall be obligated to bear only a personal identity card and individual or collective travel documentation issued by the military authorities of the United States. Such documentation must be presented to the Panamanian authorities. The two Governments shall establish through the Joint Committee the procedure to be followed in exceptional cases.

(b) To enter or leave the territory of the Republic of Panama, the members of the civilian component and dependents must possess, in addition to the travel documentation issued by the United States military authorities, a valid passport. Such documentation shall be presented to the appropriate authorities of the Republic of Panama.

(c) The United States Forces shall furnish each member of the Forces or the civilian component, and dependent, who remains in the Republic of Panama for longer than thirty days, an identity card which shall be issued under the authority of the Joint Committee in Spanish and English. Children under the age of ten years may be included on the identity card of a parent at the option of the parent. These identity cards shall be shown to the appropriate authorities of the Republic of Panama upon request.

The authorities of the Republic of Panama may request information concerning the number of such cards outstanding and the validity of any particular card. The Joint Committee and the United States Forces shall provide such information.

(3) Whenever the status of any member of the Forces or the civilian component, or dependent, is altered so that, at the time of such alteration, he is no longer entitled to remain in the Republic of Panama, the United States Forces shall promptly notify the Panamanian authorities, and shall, if requested within a period sixty days thereafter, ensure that transportation from the Republic of Panama will be provided at no cost to the Government of the Republic of Panama.

(4) (a) The members of the Forces or the civilian component, and dependents, shall be exempted from fiscal charges relating to their entry, stay in, or departure from the territory of the Republic of Panama. Similarly they will be exempted from obligatory services established in favor of the Republic of Panama. They shall not acquire any right to permanent residence or domicile in the Republic of Panama.

(b) Members of the Forces or the civilian component who enter the Republic of Panama to execute professional services exclusively for the United States Forces, or in its behalf, shall not be subject to the licensing regimes of the Republic of Panama, but they shall limit their professional activity to such services with the United

States Forces for the specific purposes of the Panama Canal Treaty, or as the two Governments may otherwise agree.

ARTICLE XIV.—SERVICES AND INSTALLATIONS

(1) The United States Forces, members of the Forces or civilian component, and dependents, may use the public services and installations belonging to or regulated by the Government of the Republic of Panama, but the terms and conditions of use, prices, rates and tariffs and priorities shall not be unfavorable in relation to those charged other users.

(2) For the use of public services and installations made available through a plant acquired or constructed, or equipment furnished, by the United States Government and subsequently transferred free to the Government of the Republic of Panama, preferential charges shall be granted to the United States Forces taking these circumstances into account.

(3) The United States Forces may establish and operate the supporting services and facilities it requires within the defense sites, and exceptionally, with the authorization of the Government of the Republic of Panama, outside such sites.

(4) The Republic of Panama will permit the United States Forces to continue to use in an adequate manner, accessory facilities, such as pipelines, communications, sanitation services and utilities, which serve the defense sites and are installed on land outside the defense sites. The United States Forces shall, at their cost, maintain and repair these facilities as necessary, in coordination with the proper entities of the Republic of Panama. Detailed identification of such facilities shall be made through the Joint Committee, within a period of six months from the entry into force of this Agreement unless extended by the Joint Committee for exceptional circumstances. The two Governments shall agree, through the Joint Committee, upon procedures to govern the appropriate use, access, maintenance and repair of these facilities. Similarly, procedures shall be agreed upon for coordination between the United States Forces and the competent Panamanian entities, concerning the use, access, maintenance and repair of such facilities as may serve the Republic of Panama and are situated within the defense sites.

ARTICLE XV.—MOVEMENT, LICENSES AND REGISTRATION OF VESSELS, AIRCRAFT AND VEHICLES

(1) (a) When in the performance of official duties, the vessels and aircraft operated by or for the United States Forces may move freely through Panamanian air space and waters, without the obligation of payment of taxes, tolls, landing or pier charges or other charges to the Republic of Panama and without any other impediment.

(b) Such vessels and aircraft shall be exempt from customs inspections or other inspections. Whenever the same carry freight, crews or passengers who are not entitled to the exemptions provided for in this Agreement, prior notice shall be given to the appropriate Panamanian authorities. Both Governments shall adopt procedures to ensure that the laws and regulations of the Republic of Panama are not violated.

(2) (a) Similarly, the vehicles and equipment of the United States Forces may, when in the performance of official duties, move freely in the Republic of Panama, without the obligation of payment of taxes, tolls or other charges to the Republic of Panama and without any other impediment. These vehicles and equipment shall be exempt from mechanical or other inspection.

Claims arising from damage caused by the United States Forces to the Panamanian road network outside the defense sites, in excess of the usual wear and tear by reason of time and its appropriate use, shall be settled as provided for in Article XX.

(b) Such official vehicles and equipment shall not be assessed any license or registration fees. These vehicles shall bear their customary United States military identification marks and an additional means of identification as may be agreed upon by the Joint Committee, to be issued under the authority of said Joint Committee and distributed by the United States Forces.

(c) In connection with the movement of any military convoys, or any large number of vehicles as a single unit, outside of the defense sites, the United States Forces shall consult with the Combined Military Board so that, if time and circumstances permit, proper traffic arrangements will be made, including accompaniment by Panamanian traffic patrols.

(3) (a) The plates, individual marks and registration documents issued by the United States for vehicles, trailers, vessels and aircraft which are the property of the United States Forces shall be accepted by the Republic of Panama.

(b) The Republic of Panama shall recognize as sufficient, the valid licenses, permits, certificates or other official classifications from the United States Government, possessed by operators of vehicles, vessels and aircraft which are property of the United States Government.

(4) (a) The vehicles, trailers, vessels and aircraft belonging to the members of the Forces or the civilian component, or dependents, shall also move freely within the Republic of Panama, in compliance with the traffic regulations and those regarding the annual mechanical inspection. The license plate fee and other obligations shall not be discriminatory.

(b) The Republic of Panama shall issue, in accordance with its laws, the appropriate documents of title and registration of vehicles, trailers, vessels and aircraft which are the property of the members of the Forces or the civilian component, or dependents, when the latter present title and registration, issued by the federal or state authorities of the United States or by the authorities of the former Canal Zone. Applicants may retain such documents provided they leave with the Panamanian authorities a copy authenticated by the United States Forces, duly translated into Spanish.

While the corresponding request is being processed and within a term which may not exceed thirty days after its arrival in the Republic of Panama, the means of transportation mentioned above may be operated with the plates or distinctive marks issued by the United States federal or state authorities.

(c) The members of the Forces or the civilian component, and dependents, who bear drivers' licenses, vessel operators' permits, or licenses and classifications of air pilots issued by the federal or state authorities of the United States or by the authorities of the former Canal Zone, shall receive equivalent Panamanian licenses, permits and classifications without being subjected to new tests or payments of new fees. The applicants may retain the licenses, permits and classifications of the United States or the former Canal Zone provided that they leave with the Panamanian authorities a copy authenticated by the United States Forces and duly translated into Spanish. Members of the Forces or the civilian component, and dependents, shall be permitted to drive vehicles, vessels or aircraft in the Republic of Panama with such licenses, permits and classifications during the thirty days following their first arrival in the Republic of Panama and during the subsequent period necessary for the processing of the application in Panama for a driver's license, vessel operator's permit, or license and classification as an air pilot.

(d) The Panamanian licenses, permits or classifications shall be valid for the period of time indicated in the Panamanian law and, during the continuous presence of the bearer in Panama, shall, to preserve their validity, be renewed in accordance with Panamanian laws.

Whenever Panamanian laws may require medical certifications for the renewal of licenses, permits or classifications the Republic of Panama shall accept the certifications issued by the medical services of the United States Forces, provided that said certifications are issued in Spanish.

(e) The Republic of Panama shall issue, in accordance with its laws, drivers' licenses, vessel operators' permits, and licenses and other classifications of air pilots to members of the Forces or the civilian component, and dependents, when they do not possess such documents. If any test is required as a prerequisite for the issuance of the documents mentioned, Panama shall permit the interested persons to take the examination in Spanish or English. Any material which the Republic of Panama may generally issue in preparation for such examinations shall be furnished, in Spanish or English, as the applicant may request.

(5) Aircraft other than those of Panama and the United States may use the runways of the defense sites only after obtaining appropriate authorization from the Republic of Panama. When deemed convenient, the two Governments shall adopt, through the Joint Committee, regulations governing the use by such aircraft.

(6) The installation, change of position or alteration of lights and other signal installations to assist in navigation of aircraft, placed or established in the defense sites or in their surroundings, shall be subject to previous consultation between the appropriate authorities of both Governments.

(7) The Republic of Panama shall adopt such measures as may be appropriate to coordinate air traffic in the Republic of Panama, so that, in a manner consistent with the mission of the United States Forces, maximum safety shall be offered to civil and military air navigation. All systems of control and coordination of military air traffic shall be developed jointly as needed for the fulfillment of

the specific purposes of this Agreement. The procedures needed to bring about this coordination shall be agreed upon by the appointed authorities of both Governments, respecting always the sovereignty of the Republic of Panama over all its air space.

The Republic of Panama agrees that, for security reasons, at the request of the United States Forces it shall restrict overflights of certain of the defense sites.

(8) The Joint Committee may agree on rules and procedures that may be necessary to implement this Article.

ARTICLE XVI.—TAXATION

(1) By virtue of this Agreement, the United States Forces are exempt from payment in the Republic of Panama of all taxes, fees or other charges on their activities or property, including those imposed through contractors or subcontactors.

(2) Members of the Forces or the civilian component, and dependents, shall be exempt from any taxes, fees, or other charges on income received as a result of their work for the United States Forces or for any of the service facilities referred to in Articles XI or XVIII of this Agreement. Similarly, as is provided by Panamanian law, they shall be exempt from payment of taxes, fees or other charges on income derived from sources outside the Republic of Panama.

(3) Members of the Forces or the civilian component, and dependents, shall be exempt from taxes, fees or other charges on gifts or inheritance or on personal property, the presence of which within the territory of the Republic of Panama is due solely to the stay therein of such persons on account of their or their sponsor's work with the United States Forces.

(4) The Joint Committee may establish such regulations as may be appropriate for the implementation of this Article.

ARTICLE XVII.—IMPORT DUTIES

(1) Except for the exemptions provided for in this Agreement, the members of the Forces or the civilian component, and dependents shall be subject to the laws and regulations administered by the customs authorities of the Republic of Panama.

(2) All property imported for the official use or benefit of the United States Forces, including that imported by their contractors or subcontractors, in connection with the various activities authorized under this Agreement, shall be exempt from the payment of all customs duties or other import taxes and charges and from all license requirements

The United States Forces shall issue a certificate, following the form adopted by the Joint Committee, stating that the property being imported is for these purposes.

(3) Property consigned to or imported for the personal use of the members of the Forces or the civilian component, or dependents shall be subject to the payment of import duties or other import taxes, except for the following:

(a) Furniture, household goods and personal effects imported by such persons for their private use within six months following their first arrival in the Republic of Panama. In the case of persons who are unable to obtain adequate housing when they first arrive in the Republic of Panama, an additional period of six months from the time they obtain adequate housing shall be granted them for the importation of such articles, provided that the United States Forces issue a certificate stating that the person concerned has not accomplished such importation and indicating the date upon which he obtained adequate housing and its address.

(b) Vehicles imported by such persons for their private use, and the spare parts required for proper maintenance of such vehicles. The Joint Committee shall establish the limitations on the quantity and frequency of imports of such vehicles and parts;

(c) A reasonable quantity of articles for the private use of such persons, imported as personal baggage or sent into the Republic of Panama through the military post offices of the United States;

(d) Such other imports as may be expressly authorized by the competent authorities of the Republic of Panama at the request of the United States Forces.

(4) The exemptions granted in paragraph (3) of this Article shall apply only to cases involving the importation of articles exempted at the time of entry and shall not be construed as obligating the Republic of Panama to reimburse customs duties and domestic taxes collected by the Republic of Panama in connection with purchases of goods from Panamanian sources subsequent to their importation.

(5) Customs inspections shall not be made in the following cases:

(a) Members of the Forces traveling under orders, other than leave orders, who enter or depart from the Republic of Panama;

(b) Official documents under official seal and mail sent through the military postal channels of the United States;

(c) Cargo consigned to the United States Forces.

(6) Property imported under this Article and subsequently transferred to a person who is not entitled to duty-free importation shall be subject to the payment of import duties and other taxes according to the laws and regulations of the Republic of Panama. Such sales shall not be permitted when they are motivated by commercial purposes.

(7) All property imported into the Republic of Panama free of customs duties and other taxes pursuant to paragraphs (2) and (3) of this Article may be exported free of customs duties, export permits, or other export taxes and assessments. All property acquired in the Republic of Panama by, or in the name of the United States Forces, or acquired by members of the Forces or the civilian component, or dependents, for their private use may be exported free of customs duties, export licenses or other export taxes and charges.

(8) The authorities of the United States agree to cooperate with the authorities of the Republic of Panama and shall take, within their legal authority, all such steps as may be necessary to prevent the abuse of the privileges granted under the Article to the members of the Forces or the civilian component, or dependents.

(9) In order to prevent violations of the laws and regulations administered by the customs authorities of the Republic of Panama, the two Governments agree as follows:

(a) The authorities of the Republic of Panama and the competent authorities of the United States shall mutually assist one another in the conduct of investigations and the collection of evidence.

(b) The authorities of the United States shall take, within their legal authority, all necessary measures to ensure that articles subject to seizure by or in the name of the customs authorities of the Republic of Panama are delivered to these authorities.

(c) The authorities of the United States shall take, within their legal authority, all necessary measures to ensure the payment by members of the Forces or the civilian component, and dependents, of such import duties, taxes, and fines as may be duly determined by the Panamian authorities.

(10) Vehicles and articles belonging to the United States Forces that are seized from a person by the authorities of the Republic of Panama in connection with a violation of its customs or tax laws or regulations shall be delivered to the competent authorities of the United States Forces.

(11) The Joint Committee will constitute the means of communication and information between the two Governments with regard to matters pertaining to the implementation of this Article.

ARTICLE XVIII.—HEALTH, SANITATION AND EDUCATION

(1) The United States Forces may furnish educational, sanitary and medical services, including veterinary services, to the members of the Forces or the civilian component, and dependents, and other persons as may be agreed upon as exceptions by the two Governments through the Joint Committee.

(2) Matters of mutual interest relative to the control and prevention of diseases and the coordination of other public health, quarantine, sanitation and education services shall be the subject of coordination in the Joint Committee.

(3) The Republic of Panama authorizes the United States Forces, in rendering such health, sanitation and education services, to apply its own regulations.

ARTICLE XIX.—SURVEYS

The United States may carry our topographic, hydrographic, agrologic and other surveys (including taking of aerial photographs) within the defense sites. Surveys in other areas of the Republic of Panama shall require authorization from the Repubic of Panama, in the manner agreed upon in the Joint Committee, and the Republic of Panama shall, at its option, designate a representative to be present. The United States shall furnish a copy of the data resulting from such surveys to the Republic of Panamas at no cost.

ARTICLE XX.—CLAIMS

(1) Each Government waives its claims against the other Government for damage to any property owned by it and used by its land, sea or air armed services, in the following circumstances;

(a) If the damage was caused by a member or an employee of the armed services of the other Government, in the performance of his official duties; or,

(b) If the damage arose from the use of any vehicle, vessel or aircraft owned by the other Government and used by its armed services, provided either that the vehicle, vessel or aircraft causing the damage was being used for official purposes, or that the damage was caused to property being so used.

(2) In the case of damage caused or arising as stated in paragraph (1), to other property owned by either Government and located in the Republic of Panama, the claims shall be settled by the Government against which the claim is made. If it is not settled in due course, the claim may be pursued through diplomatic channels. Both Governments hereby waive the collection of any claims for an amount less than $1,400 U.S. or B/.1,400 which are of equal value.

(3) In cases of maritime salvage, each Government waives its claims against the other if the vessel or cargo salved was the property of the other Government and was used by its armed services for official purposes.

(4) For the purposes of this Article, any vessel chartered, requisitioned or seized in prize by a Government shall be considered its property (except to the extent that the risk of loss or liability is assumed by some other persons than such Government).

(5) Each Government waives its claims against the other Government for injury or death suffered by any member of its armed services while said member was engaged in the performance of his official duties.

(6) The members of the Forces and the civilian employees of the United States Forces shall be subject to the jurisdiction of the civil courts of the Republic of Panama except in matters which arise from the performance of their official duty. In cases where payment has been accepted in full satisfaction of the claim, the civil courts of the Republic of Panama shall dismiss any proceedings concerning the matter.

(7) When personal private property subject to seizure or attachment by order of a competent authority under Panamanian law is within the defense sites, the United States authorities shall render, upon request of the Panamanian authorities, all assistance within their power in order that such property is turned over promptly to the Panamanian authorities. This paragraph shall not apply to personal property which, although privately owned, is in use by or on behalf of the United States Forces.

(8) Non-contractual claims arising from damages caused in the performance of their official duties by members or civilian employees of the United States Forces to third parties other than the two Governments shall be presented by the injured party through the Joint Committee to the appropriate authorities of the United States Forces for settlement. The authorities of the Republic of Panama may submit advice and recommendations on Panamanian law to the claim authorities of the United States for their use in evaluating liability and amount of damages.

(9) For other non-contractual claims against the members of the Forces or the civilian component, the authorities of the United States, following consultation with the appropriate authorities of the Government of Panama, shall consider the claim and, if appropriate, offer an *ex gratia* payment.

(10) The authorities of both Governments shall cooperate in the investigation and procurement of evidence for a fair disposition of claims under this Article.

(11) Contractual claims against the United States Forces shall be settled in accordance with the dispute clause of the contracts, and in the absence of such clause, through presentation of claims to the United States authorities through the appropriate channels.

(12) The United States Government shall require contractors and subcontractors referred to in Article XII of this Agreement to obtain appropriate insurance to cover the civil liabilities that may be incurred in Panamanian territory as a result of acts or omissions done in the performance of official duty by their employees. The Joint Committee shall establish the general standards for such insurance.

ARTICLE XXI.—GENERAL PROVISIONS

(1) The activities and operations of the United States Government shall be carried out with adequate attention to public health and safety in the Republic of Panama. Within the defense sites, whose use Panama makes available to the United States by virtue of this Agreement, the United States authorities shall adopt all the appropriate measures to cooperate for these purposes with the authorities of the Republic of Panama.

(2) When required by their official duties, members of the Forces or the civilian component may possess and carry official arms and they will conform to any standards which the Joint Committee establishes. The members of the Forces or the civilian component, and dependents, may bear private arms in accordance with applicable Panamanian laws and regulations, and regulations of the United States Forces.

(3) The members of the Forces shall be obliged to observe proper conduct in accordance with the order and discipline required by Panamanian laws and the military laws and regulations of the United States. The authorities of the Republic of Panama shall maintain vigilance that Panamanian laws and regulations shall be observed at all times.

When the order and discipline referred to in this paragraph should be breached by members of the Forces outside the defense sites, and the authorities of the Republic of Panama, for reasons of language differences or other circumstances, consider it convenient they may request the presence of personnel of the police of the United States Forces to cooperate in the reestablishment of order and discipline, and, in such cases, the United States Forces shall be obliged to send them.

Within the defense sites, the police function shall be primarily exercised by the police of the United States Forces. The Panamanian authorities shall cooperate with the United States Forces in the fulfillment of this function, for which purpose they may locate members of the Panamanian police within the defense sites at the headquarters of the police of the United States Forces or as the Joint Committee agrees. Such cooperation shall be rendered particularly in those cases involving Panamanian nationals.

The Joint Committee may also agree on a procedure so that members of the Panamanian police and the police of the United States Forces may jointly conduct routine inspections for the maintenance of order and discipline in those places where vigilance is especially required.

(4) The United States Forces shall restrict, to the maximum extent possible, the wearing of military uniforms so that they will be worn only when necessary. The Joint Committee shall adopt standards regarding the wearing of military uniforms in other cases, as exceptions.

ARTICLE XXII.—DURATION

This Agreement shall enter into force when the Panama Canal Treaty signed on this date enters into force and shall terminate at noon, Panama time, on December 31, 1999.

DONE at Washington, this 7th day of September, 1977, in duplicate in the English and Spanish languages, both being equally authentic.

ANNEX A.—DEFENSE SITES, MILITARY AREAS OF COORDINATION AND OTHER INSTALLATIONS

(1) The defense sites, military areas of coordination, and other installations, the use of which is made available by the Republic of Panama to the United States, are described below and identified, but not definitively, on the maps attached hereto and referenced herein, in the manner indicated on the legends thereof. When areas or installations are depicted on more than one map of different scales, the identification on the map with the largest scale shall be controlling. More precise identifications and exact boundaries shall be agreed upon as soon as practicable by the Joint Committee established in Article II of this Agreement after a Joint Survey to be conducted by representatives of the two Parties. When the aforementioned identifications have been completed and agreed upon, they shall be controlling as to the boundaries of the installations and areas described in this Annex.

(2) The defense sites are described generally as follows:

(a) Howard Air Force Base—Fort Kobbe—Farfan (including the Farfan Radio Receiver Facility, Farfan Annex), and United States Naval Station, Rodman, and Marine Barracks (including 193rd Brigade Ammunition Storage Area, Cocoli Housing Area and Arraijan Tank Farm) (Attachment 1);

(b) Fort Clayton—Corozal Army Reservation and Albrook Air Force Station (west) (Attachments 1, 2 and 3);

(c) For William D. Davis Military Reservation, to include Dock 45 and the adjacent water area and Atlantic general depot areas, (Attachments 1 and 4);

(d) Fort Sherman Military Reservation, (Attachment 1); and

(e) Galeta Island; United States Navy Transisthmian Pipeline; and Semaphore Hill Long-Range Radar and Communications Link, (Attachment 1).

(3)(a) The Military Areas of Coordination are described generally as follows:

(i) General Military Areas of Coordination:

(aa) Quarry Heights, except for housing made available to Panama pursuant to paragraph (5)(b) of Annex B to this agreement (Attachments 1 and 5);

(bb) United States Naval Station, Panama Canal, Fort Amador (Attachments 1 and 6); and

(cc) Fort Gulick (Attachments 1 and 7).

(ii) Military Areas of Coordination for Training (Attachment 1):

(aa) Empire Range;

(bb) Piña Range;

(cc) Fort Sherman West; and

(dd) Fort Clayton Training Area.

(iii) Military Areas of Coordination for Housing:

(aa) Curundu Heights, except for housing made available to the Republic of Panama pursuant to paragraph (5)(b) of Annex B to this Agreement (Attachments 1 and 8);

(bb) Herrick Heights (Attachments 1 and 9);

(cc) Coco Solo South (Attachments 1 and 10);

(dd) Fort Amador, except for Buildings 1 through 9, 45 through 48, 51, 57, 64, and 93, and for housing made available to the Republic of Panama pursuant to paragraph (5)(b) of Annex B to this Agreement (Attachments 1 and 11);

(ee) France Field (Attachments 1 and 12); and

(ff) Curundu Flats (Attachments 1 and 8).

(iv) Special Facilities:

(aa) Curundu Antenna Farm (Attachments 1 and 3);

(bb) United States Navy Communications Station, Balboa (Attachments 1 and 6);

(cc) Summit Naval Radio Station (Attachment 1);

(dd) Quarry Heights Communications Facility (tunnel) (Attachments 1 and 5);

(ee) Ancon Hill Communications Facilities (Attachments 1 and 5);

(ff) Battery Pratt Communications Facility (Coordinate 119326) (Attachment 1);

(gg) Ammunition Supply Point, Fort Gulick (Attachments 1 and 13);

(hh) Navy Communications-Electric Repair Facility (Building 43—F) (Attachments 1 and 14);

(ii) United States Army Transport-Shipping Facility (Building 39-C) (Attachments 1 and 14);

(jj) Gorgas Hospital Complex (Buildings 223, 233, 237, 238, 240, 240-A, 241, 241-A, 242, 253, 254, 255, 257, 257-G, 261, hospital grounds, and building 424) (Attachments 1 and 9);

(kk) Coco Solo Hospital (Buildings 8900, 8901, 8902, 8904, 8905, 8906, 8907, 8908, 8910, 8912, 8914, 8916, 8918, 8920, 8922, 8926, tennis court, grounds and miscellaneous buildings and structures) (Attachment 1);

(ll) Balboa High School (Buildings 74, 701, 702, 704, 705, 706, 707, 713-X, Stadium, 723, 723-A, 723-B, 723-C, 723-D, 723-E, 723-F, 723-G, parking area, and play slab) (Attachments 1, 14, 15 and 16);

(mm) Curundu Junior High School (Buildings 0615-A, 0615-B, 0615-C, 0615-D, 0615-F, cooling tower structure, playgrounds, tennis courts, and equipment, storage and music buildings, swimming pool and bathhouse, and parking areas (Attachments 1 and 8);

(nn) Cristobal Junior High School (Buildings 1141, 1143, 1149, 1150, 1151, 1153, 1154, 1156, 1239, 1158, 1186, 1288, 2000, playfield, and parking areas) (Attachments 1 and 10);

(oo) Balboa Elementary School (Buildings 709, 710, playground, and parking area) (Attachments 1, 15 and 16);

(pp) Diablo Elementary school (Buildings 5534, 5536, 5634, 5636, 5638, playground, air conditioning building, and parking area) (Attachments 1 and 17);

(qq) Los Rios Elementary School (Buildings 6225, 6226, playground, parking area and chilled water building) (Attachments 1 and 18);

(rr) Gamboa Elementary School (Buildings 56, 56-A, playground, and parking area) (Attachments 1 and 19);

(ss) Coco Solo Elementary School (Buildings 98, 98-A, parking area, playground and chilled water building) (Attachments 1 and 20);

(tt) Margarita Elementary School (Buildings 8350, 8352, playground, parking area, chilled water building and storage building) (Attachments 1 and 21);

(uu) Fort Gulick Elementary School (Buildings 350, 351, 352, playground and parking area) (Attachments 1 and 7);

(vv) Canal Zone College (Buildings 1030, 1031, 1032, 1033, 1034, 1035, 980, 982, 838, athletic field and parking lots) (Attachments 1, 15 and 22);

(ww) Ancon School Administration Office (Partial use of Panama Canal Commission Building 0610) (Attachments 1 and 9);

(xx) Margarita Community Health Center (Partial use of Panama Canal Commission Building 7998) (Attachments 1 and 21);

(yy) Gamboa Community Health Clinic (Use of Panama Canal Commission Building 63) (Attachments 1 and 19);

(zz) Ancon Dental Clinic (Building 287-X, partial use of Panama Canal Commission Building 287) (Attachments 1 and 9);

(aaa) Corozal Mental Health Center (Buildings 6521, 6523, 6524, 6525, 6526, 6537 and grounds) (Attachments 1, 18 and 23);

(bbb) Corozal Animal Care Station/Veterinary Hospital (Buildings 6553, 6554, 6555, and grounds) (Attachments 1 and 18);

(ccc) Corozal Cemetery (Buildings and facilities) (Attachments 1, 18 and 23);

(ddd) Balboa Community Health Center (Use of Panama Canal Commission Building 721) (Attachments 1 and 15); and

(eee) Coco Solo Community Health Center (Room in Building 1140) (Attachments 1 and 20).

(b) The following installations, not contiguous to the defense sites or military Areas of Coordination, which shall be subject to the provisions of the Panama Canal Treaty and this Agreement applicable to the Military Areas of Coordination are described generally as follows:

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(i) Buildings 430, 433 and 435 in the Corozal Antenna Field (Attachments 1 and 2);

(ii) AAFES Warehouse, Building 1008 and 1009 (Attachments 1 and 3);

(iii) United States Army Meddac Warehouses, Buildings 490 and 1010 (Attachments 1 and 3);

(iv) Defense Mapping Agency—Inter-American Geodetic Survey Headquarters and warehouse, Buildings 1019, 1007 and 1022 (Attachments 1 and 3);

(v) Balboa West bombing range, as defined by coordinates PA 350056, PA 381074, PV 433990 and PV 404799 (Attachment 1);

(vi) United States Navy Salvage Storage Area, Building 29-B (Attachments 1 and 14);

(vii) United States Army NBC Chambers, Buildings 922, 923, 924, 925, 926 and 927 (Attachments 1 and 8);

(viii) United States Air Force Communications Group storage/training facility, Building 875 (Attachments 1 and 8);

(ix) Inter-American Air Force Academy Jet Engine Test Cell, Building 1901 (Attachments 1 and 8);

(x) Quarry Heights Motor Pool (Building 159) (Attachments 1 and 5);

(xi) Ammunition Transfer Point, Cerro Pelado (Coordinates 415083) (Attachment 1); and

(xii) Fort Amador (Buildings S-103, 104, 105, 105-A, 105-B, 107, 110, 190, 218, 228, 229, 268, 270) (Attachments 1 and 11)

(c) The following areas described in paragraph (a) above shall cease to be Military Areas of Coordination three years from the entry into force of this Agreement:

(i) Curundu Antenna Farm;

(ii) Curundu Heights Housing; and

(iii) Barracks facilities at Fort Gulick for a company of the Forces of the Republic of Panama in specific buildings as agreed in the Joint Committee.

(d) The following areas described in paragraph (a) above shall cease to be Military Areas of Coordination five years from the entry into force of this Agreement:

(i) Fort Gulick, except for family housing, community service areas, and the ammunition storage facility; and

(ii) France Field.

(e) The following areas described in paragraph (a) above shall cease to be Military Areas of Coordination during the life of this Agreement:

(i) Fort Clayton Training Area;

(ii) Fort Amador;

(iii) Fort Gulick Family Housing, community service areas and the ammunition storage facility;

(iv) Coco Solo Family Housing; and

(v) That portion of the Curundu Flats Housing Area comprising the contractor's trailer housing area.

(4) The installations outside of the defense sites, which may be used as provided in Article XI, are described generally as follows:

(a) Miscellaneous facilities as follows: Post Exchange Facility in Building 100, Coco Solo; packing and crating Building 406, Albrook; Post Exchange warehouse, Building 304; household goods crating

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warehouse, Building 1081; Contractor's air conditioning facility, Building 1002; and household goods warehouse, Building 1067 (Attachments 1, 3, 8 and 20);

(b) Recreational Facilities as follows: Camp Chagres Boy Scout Camp at Madden Dam; and Surfside Theater at Naos Island (Attachment 1); and

(c) Post Exchange Facility, Curundu, Buildings 1025, 1026 and 1027; Photo Shop Building 821 (Attachments 1, 3 and 8).

ANNEX B.—TERMS FOR ADMINISTRATION OF MILITARY AREAS OF COORDINATION

(1) *Purpose:* To establish and delineate the respective responsibilities of the United States Forces and the Forces of the Republic of Panama concerning certain areas which the Republic of Panama makes available for coordinated use by the United States Forces and the Forces of the Republic of Panama.

(2) Definitions

(a) Military Areas of Coordination (sometimes hereinafter referred to as "Areas") are those areas, and the facilities within them, outside of defense sites, which the Republic of Panama by this Agreement authorizes the United States to use for purposes of communications and military training, and for housing and support of members of the Forces, the civilian component, and dependents; and for other purposes, as the two Parties may agree. A list of these Areas is set forth in Annex A to this Agreement.

(b) Security includes those measures taken to provide physical protection and limit access to or egress from a Military Area of Coordination.

(c) Exterior security measures area applicable only outside the boundaries of Military Areas of Coordination.

(d) Interior security measures are applicable only inside the boundaries of Military Areas of Coordination.

(3) General Conditions

(a) The Republic of Panama authorizes the United States to use and maintain Military Areas of Coordination for the purposes of the Panama Canal Treaty. Signs exterior to Military Areas of Coordination will indicate that such Areas are operated under a grant of authority from the Republic of Panama. Only the flag of the Republic of Panama shall be flown in Military Areas of Coordination, including at their entrances, except that, as provided in Article VII of the Panama Canal Treaty, the flags of both the Republic of Panama and the United States may be flown at the site of the Combined Board, which shall be located at Quarry Heights.

(b) All rights, privileges and immunities, which the United States possesses with respect to defense sites under this Agreement shall apply equally with respect to the Military Areas of Coordination, except as limited or excluded in this Annex.

(c) The security of the Military Areas of Coordination shall be the combined responsibility of the United States Forces and the Forces of the Republic of Panama. The Forces of the Republic of Panama shall have the responsibility for maintaining exterior security for these Areas, except where the boundary of such an area coincides with the boundary of a defense site. The United States Forces may assist the Forces of the Republic of Panama in combined stations and patrols as mutually agreed. The senior United States Commander shall have the responsibility for interior security, including control of access to these Areas. Joint United States/Republic of Panama Military police patrols will be used within the Military Areas of Coordination, except within the Special Facilities referred to in paragraph 6 of this Annex. The United States Forces shall be responsible for the command, supervision and protection of their personnel, facilities and equipment within the Areas. The Forces of the Republic of Panama shall be responsible for the command, supervision, and the protection of their personnel and equipment and of the facilities they use within the Areas. The members of the Forces, civilian component and dependents, shall have free unrestricted access to the Areas.

(d) No change in the basic character and functions of Military Areas of Coordination shall be made except by mutual consent of the United States Forces and Forces of the Republic of Panama through the Joint Committee or in accordance with Article IV of this Agreement.

(e) The Combined Board, which is established in Article IV of the Panama Canal Treaty, will be the body in which the United States Forces and the Forces of the Republic of Panama will consult regarding joint training in the Military Areas of Coordination, including construction of new training facilities.

(f) The Joint Committee, established in Article III of this Agreement will be the body in which the United States Forces and the Armed Forces of the Republic of Panama will consult for the purpose of administration of the Military Areas of Coordination.

(g) All signs, posters, and notices of general interest within, and at the entrances to, Military Areas of Coordination will be written in the Spanish and English languages.

(h) A Liaison Office of the Forces of the Republic of Panama may be established within each Military Area of Coordination, as mutually agreed.

(i) The Republic of Panama authorizes the United States Forces to apply its own regulations concerning fire prevention, safety, and sanitation standards in Military Areas of Coordination.

(4) *Military Areas of Coordination for Training*

(a) The Military Areas of Coordination for Training identified in Annex A to this Agreement will be available to both the United States Forces and the Forces of the Republic of Panama for the conduct of training.

(b) The United States Forces shall have the responsibility for scheduling the use of the Training Areas for the duration of this Agreement.

(c) The United States agrees to increased use of Training Areas by the Forces of the Republic of Panama over the life of this Agreement, in accordance with agreed arrangements of the Combined Board.

(d) Except as otherwise provided in this Annex, the United States Forces shall have the responsibility for internal control and management of the Training Areas.

(e) The Commanding Officer of the forces using the Training Areas at any given time will be responsible for the safety of all ranges and firing positions during such use, in accordance with established regulations, subject to the authority of the responsible United States Forces Commander only with respect to matters related to safety.

(5) Military Areas of Coordination for Housing

(a) Military Areas of Coordination for Housing are separately identified in Annex A to this Agreement.

(b) These areas shall be available for occupancy by members of the Forces or the civilian component, and dependents. Selected housing units will be made available to the Republic of Panama, as may be mutually agreed.

(c) No new housing units will be constructed in Military Areas of Coordination by the United States.

(6) Special Facilities

(a) Special facilities located in Military Areas of Coordination are separately identified in Annex A to this Agreement.

(b) With respect to such special facilities, the United States authorities shall be responsible for all interior security to include entrance and exit guards. Only authorized personnel as determined by the United States authorities will be admitted to such facilities.

ANNEX C.—APPLICATION OF PANAMANIAN SOCIAL SECURITY

(1) The provisions for Employee Social Security, retirement benefits, and health benefits coverage, set forth in paragraphs 1.4 of Article VIII of the Agreement in Implementation of Article III of the Panama Canal Treaty shall be applicable, *mutatis mutandis*, to employees of the United States Forces and to those employees who may be transferred from the Panama Canal Commission to the United States Forces.

(2)(a) Non-United States citizen employees who are not covered by the Civil Service Retirement System of the United States, or employees paid by United States non-appropriated fund instrumentalities, shall be covered by Panamanian Social Security from the date this Agreement enters into force, with contributions paid by the insured and the employer according to the rates established by the Social Security Laws of the Republic of Panama.

(b) The United States shall request the necessary legislation to pay each such employee at retirement similar to that of the Social Security System of the Republic of Panama.

ANNEX D.—PROCEDURAL GUARANTEES

A member of the Forces or the civilian component, or a dependent, prosecuted by the Panamanian authorities shall be entitled to the following procedural guarantees:

(a) To a prompt and speedy trial.

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(b) To be informed, in advance of trial, of the specific charge or charges made against him.

(c) To be confronted with and to be allowed to cross-examine the witnesses against him.

(d) To have evidence and witnesses in his favor presented. The authorities shall submit such evidence and call the witnesses if they are within the Republic of Panama.

(e) To have legal representation of his own choice for his defense during all investigative and judicial phases from the time of submission to questioning and throughout the entire proceedings; or, if he indicates he lacks funds for his defense, to be defended by the appropriate public defender.

(f) To have the services of a competent interpreter if he considers it necessary.

(g) To communicate with a representative of the Government of the United States and to have such a representative present, as an observer, at his trial.

(h) Not to be held guilty on account of any act or omission which did not constitute a criminal offense under the law of the Republic of Panama at the time it was committed.

(i) To be present at his trial which shall be public. However, without prejudice to the procedural guarantees in this Annex, persons whose presence is not necessary may be excluded, if the court so decides for reasons of public order or morality.

(j) In his proceedings to have the total burden of proof laden upon the Public Prosecutor or the prosecution.

(k) To have the court consider only voluntary confessions and evidence properly obtained in accordance with the requirements of the law.

(l) Not to be compelled to testify against or otherwise incriminate himself.

(m) Not to be required to stand trial if he is not physically or mentally fit to stand trial and participate in his defense.

(n) Not to be tried or punished more than once for the same offense.

(o) To have the right to appeal a conviction or sentence.

(p) To have credited to any sentence for confinement his entire period of pre-trial custody.

(q) Not to be subject to application of martial law or trial by military courts of special tribunals.

(r) To enjoy other guarantees and rights provided for in the Constitution, Judicial Code and other laws of the Republic of Panama.

AGREED MINUTE TO THE AGREEMENT IN IMPLEMENTATION OF ARTICLE IV OF THE PANAMA CANAL TREATY

1. With reference to paragraph 5(c) of Article VI of the Agreement in Implementation of Article IV of the Panama Canal Treaty (hereinafter referred to as "the Agreement"), the five offenses under Panamanian law referred to therein are understood to be:

(a) "Murder" means the intentional killing of one person by another.

(b) "Rape" means the commission of an act of sexual intercourse by violence or threat and without consent with a person not his spouse, or with a person who is not capable of resisting by reason of mental or physical illness, or with a minor less than twelve years old.

(c) "Robbery with violence" means the act of appropriating an object of value belonging to someone else with the purpose of depriving its owner of his possession and deriving benefit from it, using violence against such person or a third person present at the scene of the act.

(d) "Trafficking in drugs" means the unlawful sale, exchange or transfer for gain of marihuana, hashish, heroin, cocaine, amphetamines, barbituates, or L.S.D.

(e) "Crime against the security of the Panamanian State" means espionage, sabotage, or terrorism directed against the constituted powers or authorities of Panama, with the purpose of overthrowing them.

2. With reference to paragraphs (2) and (3) of Annex A, it is understood that the United States agrees to the construction by the Republic of Panama of an Atlantic Coast Highway, and a new highway on the Pacific side of the Isthmus, at locations and with right of way widths to be mutually agreed. It is further understood that the bridge over the Canal, in each case, will be of a design sufficiently high so that it will not interfere with the operation of the Canal or with any improvement that may be made to the Canal.

3. With reference to paragraph (2)(a) of Annex A, it is understood that the United States agrees to the construction by the Republic of Panama of a road from Panama City to Vera Cruz at a location to be agreed upon by the Parties, the use of which will be subject to certain agreed conditions and restrictions, which will include the following:

The right of way through the defense site shall be used only for the construction, use and maintenance of the road.

The United States Forces shall have access to the right of way and the right to cross it at any point.

It is understood that upon completion of such road, the access road through Howard Air Force Base to Vera Cruz may be closed by the United States to through traffic. It is further understood that the Republic of Panama will preclude any activity in the coastal areas in the vicinity of Kobbe and Venado Beaches which, in the determination of the United States Forces, might interfere technically with the activities of the United States Navy Receiver Site at Farfan, the United States Air Force communications activity in the vicinity of the Howard/Kobbe Defense Sites, and aircraft operations at Howard Air Force Base.

An illustrative listing of activities which would interfere with aircraft operations at Howard Air Force Base is as follows:

Any construction within 1 kilometer on either side of the runway as extended to the sea.

Construction to structures or objects more than 8 meters high in an area from 1 to 3 kilometers east of the runway as extended to the sea.

Construction of structures or objects more than 8 meters high in an area from 1 to 2 kilometers west of the runway as extended to the sea.

It is further understood that the general public shall have free access to those portions of Venado and Kobbe Beaches lying within defense sites, in accordance with procedures to be developed by the Joint Committee.

4. With reference to paragraph (2)(b) of Annex A, it is understood that the airstrip at Albrook Air Force Station which is transferred to the Republic of Panama as provided in Article XIII of the Panama Canal Treaty, will not be used for any aviation flight purposes other than helicopter operations. It is further understood that the United States Forces may conduct helicopter operations on the west taxiways, adjacent grassy areas and runway at Albrook Air Force Station until such time as the Republic of Panama determines that development of this area adversely affects flight safety.

5. With reference to paragraphs (2)(c), (2)(d), (3)(a)(ii)(bb) and (3)(a)(ii)(cc) of Annex A, it is understood that the general public shall have free access to and use of the R-6, 836, R-2, S-10, S-2, and S-8 Roads.

6. With reference to paragraph (2)(e) of Annex A:

(a) it is understood that the Republic of Panama will restrict any activity within a 6,000 foot radius of the Galeta operating antenna (coordinates 238393) which, in the determination of the United States Forces, might interfere technically with the communications at Galeta. It is further understood that there will be no construction within a 10,500 foot radius of the Galeta operating antenna for a purpose of heavy industry or of installations with high voltage electrical emission, unless the two parties otherwise agree;

(b) it is understood that the Republic of Panama shall keep the R-2 Road open from Coco Solo to Galeta Island; and

(c) it is understood that the United States will consider authorizing use by the Republic of Panama of the Navy pipelines, under terms and conditions to be mutually agreed.

7. With reference to paragraph (3)(a)(i)(aa) of Annex A, it is understood that the United States shall have use of and access rights to a helicopter landing site at grid coordinates 596898, in accordance with procedures to be developed by the Joint Committee.

8. With reference to paragraphs (3)(a)(i)(bb) and (3)(a)(iii)(dd) of Annex A, it is understood that the United States Forces and the Forces of the Republic of Panama will permit the general public to have free access to the Amador Road. It is further understood that the Joint Committee shall agree upon the location and operating procedure for a joint control point. Until such a new control point is established, the present entrance control point shall remain in operation and members of the Forces of the Republic of Panama shall participate with the United States Forces in its manning. It is also understood that joint patrols of the United States Forces and of the Forces of the Republic of Panama shall patrol the Amador Road. Such joint patrols shall be conducted in accordance with the procedures established for joint patrols in Article XI of the Panama Canal Treaty. It is further understood that the members of the Forces of the Republic of Panama and of the United States Forces, the civilian component, and dependents shall have free access to and use of the beach at Naos Island.

9. With reference to paragraphs (3)(a)(ii)(bb) and (cc) of Annex A, it is understood that the Republic of Panama shall maintain the S-

10 Road open from Escobal north along the West Bank of the Canal from coordinates 140115 to 160228 in order to permit access to and from Piña Range and Fort Sherman West Training Area.

10. With reference to paragraph 3(a)(iii)(ff) of Annex A, it is understood that joint military patrols of the United States Forces and the Forces of the Republic of Panama shall patrol the C-12 Road from coordinates 591939 to 601927. Such joint patrols shall be conducted in accordance with the procedures established for joint patrols in Article XI of the Panama Canal Treaty.

11. With reference to paragraph (3)(a)(iv)(ee) of Annex A, it is understood that the Republic of Panama will preclude any activity on Ancon Hill which, in the determination of the United States Forces, might interfere technically with the communications activity of the United States Forces or of the Federal Aviation Administration on Ancon Hill.

12. With reference to paragraphs (3)(b) (ii), (iii) and (iv) and (3)(b)(vi) of Annex A, it is understood that the following facilities shall cease to be areas of coordination as stated:

United States Navy Salvage storage Area, Building 29B—Five years from the entry into force of the Agreement.

Buildings 1008 and 1009—Three years from the entry into force of the Agreement.

Buildings 490 and 1010—Two years from the entry into force of the Agreement.

Buildings 1019, 1007 and 1022—One year from the entry into force of the Agreement.

13. With reference to paragraph (3)(b)(v) of Annex A, it is understood that the Balboa West Bombing Range will cease to be subject to the provisions of Annex B to this Agreement at such time as the Republic of Panama provides an alternative facility, acceptable to the United States, for the use of the United States Forces as a bombing range.

14. With reference to paragraph (5)(b) of Annex B, it is understood that the selected housing units to be made available by the United States to the Republic of Panama shall include:

(1) Upon entry into force of the Agreement:

(a) Two family housing units at Quarry Heights for officers of the Forces of the Republic of Panama serving on the combined Board;

(b) Eight family housing units in Fort Amador for members of the Forces of the Republic of Panama assigned to Fort Amador. It is further understood that the members of the Forces of the Republic of Panama residing at Fort Amador may use the community facilities at Fort Amador under the same conditions as are applicable to the United States Forces.

(c) Twenty family housing units at Curundu Heights.

(2) Within three years after the entry into force of the Agreement, all family housing units at Curundu Heights. It is understood that the laundry and the Bachelor Officers' housing units at Curundu Heights are not family housing units and will remain under the control of United States Forces for the duration of the Agreement.

Maps of the Land and Water Areas for the Operations and Defense of the Panama Canal, Referred to in the Agreement in Implementation of Articles III and IV of the Panama Canal Treaty.

[The maps are not printed here. The map atlas is deposited in the archives of the Department of State where it is available for reference.]

EXCHANGE OF NOTES RELATING TO POSTAL SERVICES

DEPARTMENT OF STATE,
Washington, September 7, 1977.

His Excellency RÓMULO ESCOBAR BETHANCOURT,
Chief Negotiator.

EXCELLENCY: I have the honor to confirm our understanding, reached during the negotiations of the Panama Canal Treaty, that the postal services of the United States Forces and of the Republic of Panama shall establish appropriate arrangements through the Joint Committee whereby mail being handled by both postal systems may be delivered by the Postal Service of the Republic of Panama through existing postal facilities in the Canal operating areas and housing areas.

Further, it is understood, with respect to Article X of the Agreement in Implementation of Article IV of the Panama Canal Treaty, that the Republic of Panama will furnish space in the Balboa Post Office (Building 724) and within the area in the Cristobal Administration Building (Building 1105) made available to the Postal Service System of the Republic of Panama, which the United States Forces may use for bulk mail sorting and as postal distribution points, under procedures to be developed by the Joint Committee.

If the foregoing is acceptable to you, I have the honor to suggest that this note and your reply thereto indicating acceptance shall constitute an agreement between our two Governments concerning this matter, which will enter into force on the date of the entry into force of the Panama Canal Treaty.

Accept, Excellency, the renewal assurance of my highest consideration.

For the Secretary of State:

ELLSWORTH BUNKER,
Ambassador at Large.

[TRANSLATION]

EMBASSY OF PANAMA,
Washington, D.C., September 7, 1977.

His Excellency ELLSWORTH BUNKER,
Ambassador at Large of the United States of America.

EXCELLENCY: I have the honor to acknowledge receipt of Your Excellency's note of today's date, which reads as follows:

[There follows Ambassador Bunker's note, quoted in English.]

I also have the honor to confirm on behalf of my Government the foregoing arrangements and to concur that Your Excellency's note and this note shall constitute an agreement between our two Governments concerning this matter, which shall take effect on the date of the entry into force of the Panama Canal Treaty.

Accept, Excellency, the renewed assurances of my most distinguished consideration.

RÓMULO ESCOBAR B.,
Chief Negotiator.

EXCHANGE OF NOTES RELATING TO USE OF COMMISSARY AND POST EXCHANGE FACILITIES

DEPARTMENT OF STATE,
Washington, D.C., September 7, 1977.

His Excellency RÓMULO ESCOBAR BETHANCOURT,
Chief Negotiator.

EXCELLENCY: I have the honor to confirm that with respect to Article XII of the Agreement in Implementation of Article III of the Panama Canal Treaty, it is understood that immediately following the exchange of instruments of ratification, the United States Forces will conduct a thorough study of the feasibility of accommodating the persons authorized to use commissary and post exchange facilities at installations within the defense sites and other areas which the Republic of Panama permits the United States to use in accordance with the Agreement in Implementation of Article IV of the Panama Canal Treaty.

Following the entry into force of that Treaty, the United States will take all practicable steps to accommodate such persons at facilities within defense sites and such other areas. If the United States Forces find that such persons cannot practicably be so accommodated, the United States Forces may, for the purpose of providing commissary and post exchange services, use the installations listed in paragraphs 1(c)(iii)(A) and 1(e)(iii)(B) of Annex A to the Agreement in Implementation of Article III of the Panama Canal Treaty for a period of six months following the entry into force of the Treaty.

The Republic of Panama agrees that upon the written request of the United States, through the Joint Committee, that six month period of use will be extended until such time as the United States Forces determine it to be practicable to accommodate such persons within the defense sites and such other areas. In no event, however, will the total period of such use exceed 30 calendar months following the entry into force of the Treaty, unless the two Parties otherwise mutually agree.

If the foregoing proposal is acceptable to you, I have the honor to suggest that this note and your reply thereto indicating acceptance shall constitute an agreement between our two Governments concerning this matter, which will enter into force on the date of the exchange of ratification of the Panama Canal Treaty, and shall become effective on the date of the entry into force of the Panama Canal Treaty.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

ELLSWORTH BUNKER,
Ambassador at Large.

[Translation]

Embassy of Panama,
Washington, D.C., September 7, 1977.

His Excellency Ellsworth Bunker,
Ambassodor at Large of the United States of America.

Excellency: I have the honor to acknowledge receipt of Your Excellency's note of today's date, which reads as follows:

[There follows Ambassador Bunker's note, quoted in English.]

I also have the honor to confirm on behalf of my Government the foregoing arrangements and to concur that Your Excellency's note and this note shall constitute an agreement between our two Governments concerning this matter, which will enter into force on the date of the exchange of the instruments of ratification of the Panama Canal Treaty, and shall take effect on the date of the entry into force of the Panama Canal Treaty.

Accept, Excellency, the renewed assurances of my most distinguished consideration.

Rómulo Escobar B.,
Chief Negotiator.

Letter Describing Application of the Wholesale Price Index Referred to in Paragraph 4(A) of Article XIII of the Panama Canal Treaty

Department of State,
Ambassador at Large,
Washington, September 7, 1977.

His Excellency Rómulo Escobar Bethancourt,
Chief Treaty Negotiator for Panama.

Dear Ambassador Escobar: As was discussed during our negotiations, I am pleased to furnish information on the application of the Wholesale Price Index referred to in paragraph 4(A) of Article XIII of the new Panama Canal Treaty.

The Wholesale Price Index for Total Manufactured Goods of the United States is understood by the United States to refer to the seasonally adjusted figure for Total Manufactured Goods found in Table 3, "Wholesale Price Indexes for Selected Groupings Unadjusted and Seasonally Adjusted," of the monthly report of the Department of Labor "Wholesale Prices and Price Indexes." Enclosed is a copy of the latest monthly report published by the Department of Labor entitled "Wholesale Prices and Price Indexes" which describes the method of calculation of the indexes.

The new rate shall be determined by multiplying the rate of 30 cents per Panama Canal ton by a fraction the numerator of which is the average index for the twelve months ending the biennial period and the denominator of which is the average index of the twelve months preceding the first biennial period.

Sincerely,

Ellsworth Bunker.

Enclosure: Wholesale Prices and Price Indexes [1]

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[1] Not printed here.

LETTER REGARDING TERMINATION OF ARTICLE XVII OF THE UNITED STATES-PANAMA AIR TRANSPORT SERVICES AGREEMENT

DEPARTMENT OF STATE,
Washington, September 7, 1977.

His Excellency Dr. RÓMULO ESCOBAR BETHANCOURT,
Chief Negotiator.

DEAR DR. ESCOBAR: This is to confirm our understanding, reached in connection with the negotiation of the Panama Canal Treaty, that upon entry into force of that Treaty, Article XVII of the United States-Panama Air Transport Services Agreement, signed at Panama March 31, 1949, will have no further application.

Sincerely,

ELLSWORTH BUNKER,
Ambassador at Large.

OTHER DOCUMENTS

AGREEMENT ON CERTAIN ACTIVITIES OF THE UNITED STATES OF AMERICA IN THE REPUBLIC OF PANAMA

Taking account of the Panama Canal Treaty and related agreements signed this date by representatives of the United States of America and the Republic of Panama, the two Governments confirm their understanding that, in addition to the activities directly related to the specific purpose of the Panama Canal Treaty, the United States may conduct certain other activities in the Republic of Panama. Such other activities shall be conducted in accordance with the provisions of this Agreement.

1. The United States may conduct the following activities in the Republic of Panama:

(a) Tropic testing;

(b) Telecommunications, meteorological, navigational, and oceanographic activities;

(c) Activities of the Inter-American Geodetic Survey;

(d) Humanitarian relief operations, including search and rescue;

(e) Schooling of Latin American military personnel.

2. In order to carry out these activities, the United States may use installations within defense sites and military areas of coordination, and in such other areas of the Republic of Panama as may be mutually agreed.

3. The Agreement in Implementation of Article IV of the Panama Canal Treaty shall apply to the conduct of these activities in the Republic of Panama, except as otherwise provided by arrangements between the two Parties.

(a) Active duty military personnel of the United States armed services assigned to these activities shall be considered to be "members of the Forces" within the meaning of the Agreement in Implementation of Article IV.

(b) Employees of the United States assigned to these activities who are nationals of the United States to whom United States passports have been issued or who are nationals of third countries who are not habitual residents of the Republic of Panama shall be considered to be "members of the civilian component" within the meaning of the Agreement in Implementation of Article IV.

(c) The spouse and children of persons referred to in sub-paragraphs (a) and (b) above, and other relatives of such persons who depend on them for their subsistence and who habitually live with them under the same roof, shall be considered to be "dependents" within the meaning of the Agreement in Implementation of Article IV.

(d) Military personnel of other Latin American countries assigned to school duty in the Republic of Panama pursuant to paragraph (1)(e) of this Agreement shall be entitled to the privileges authorized under Articles XI and XVIII of the Agreement in Implementation of Article IV.

4. Changes in the activities listed above may be agreed upon by the two Parties through the Joint Committee created by Article III of the Agreement in Implementation of Article IV.

This Agreement shall enter into force simultaneously with the entry into force of the Panama Canal Treaty, and expire when that Treaty expires; provided, however, that the authority of the United States to conduct schooling of Latin American military personnel in the United States Army School of the Americas shall expire five years after the entry into force of the Panama Canal Treaty unless the two Governments otherwise agree.

ATTACHMENT

The following is an illustrative description of the manner in which the activities listed in paragraph 1 of the Agreement on Certain Activities of the United States in Panama presently conducted:

A. Tropic Testing

1. The United States Army Tropic Test Center (USATTC) plans, conducts and reports on tropic environmental phases of development tests and provides advice and guidance on tropic test and evaluation matters to material developers, material producers, other services, and private industry.

2. Many of the marked climatic, seismic, and biological variations which exist in tropical areas of the world are represented in Panama, providing a singular geographic area in which military hardware can be subjected to tropic environmental extremes.

3. The Center occupies office, barracks, laboratory, maintenance and supply building space, and uses outlying test facilities consisting of 18,868 acres of real estate. These outlying test facilities are: Chiva Chiva test area; Battery McKenzie; Firing Point #6, Empire Range; and Gamboa test area. The latter area consists of approximately 7500 hectares of land located along both sides of the pipeline road from the town site of Gamboa to Gatun Lake, bounded approximately by map coordinates 410085, 355080, 282198, 310217, 375164, 410110. It has been used for developmental tests and for methodology studies which provide background for studying the effects of a tropic environment on men and materiel. Range areas of the 193d Infantry Brigade, Empire Range, Pinas Light Artillery Range and Pinas Beach are also used by USATTC.

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B. Telecommunications, Meteorological, Navigational, and Oceanographic Activities

1. Military Affiliate Radio Station (MARS): serves as a backup communication capability for the military services. Provides morale, health, and welfare communication for military services. Has capability to link with MARS affiliates in the United States.

2. USSOUTHCOM Mission Radio Station: provides voice communications between USSOUTHCOM elements in Panama and United States Military Groups in Central and South America.

3. Inter-American Military Networks:

a. The Inter-American Military Network (RECIM) Station.

b. The Inter-American Telecommunications System for the Air Force (SITFA) Station.

c. The Inter-American Naval Telecommunications Network (IANTN).

These United States military stations in three international networks provide a rapid means of communications among the military services of Latin America on military matters. Most Latin American countries operate their own station in each of these networks.

4. United States Navy Timation Station: A Navy satellite tracking site sponsored by the Navy Research Laboratory (NRL). The tracking station is part of an overall Department of Defense program called the NAVSTAR Global Positioning System (GPS). The GPS program is directed toward the development and ultimate establishment, by the 1980's, of a system of 24 navigational satellites.

5. United States Army Atmospheric Sciences Laboratory Team: provides meteorological data from Central and South America.

6. Harbor Survey Assistance Program (HARSAP): a United States Naval oceanographic program which assists Western-Hemisphere countries to develop a hydrographic capability by conducting hydrographic surveys of harbors and waters. Data from these surveys are used to produce charts required to support Department of Defense and United States Merchant Marine operations. Additionally, under HARSAP, a new automated hydrographic survey collection and processing system is used to supplement in-country HARSAP survey efforts. This new system, the Hydrographic Survey and Charting System (HYSURCH), consists of a computer processing van, two boats, one officer, six enlisted personnel, six civilian engineers and technicians, and trainees from the host country.

7. Foreign Broadcast Information Service: monitors and translates into English reports appearing in the foreign public media.

C. Inter-American Geodetic Survey (IAGS)

IAGS is a regional activity, with headquarters for Latin American operations located in Panama. It is the nucleus for topographical activities conducted by the various Latin American nations. An IAGS cartography school is also conducted for Latin American students.

D. Humanitarian Relief Operations, Including Search and Rescue

United States military forces in Panama provide humanitarian relief to other Latin American countries in the event of natural disasters and to conduct searches for missing vessels in the waters of various Latin American nations.

E. Schooling for Latin American Military Personnel

1. Inter-American Naval Telecommunications Network Training Facility: conducts a formal course of instruction for operators and technicians of IANTN membership. This facility is supported by the IANTN communication assistance team, whose members are all bilingual.

2. The United States Army School of the Americas (USARSA): provides professional military training in Spanish for the armed forces of 17 Latin American states, accomplished through courses based on United States Army doctrine ranging from the Command and General Staff College Course, Advanced and Basic Officers Courses, and the Cadet Senior-Year Course, to the Non-Commissioned Officer Leadership Course. In addition to this emphasis on professional training, the School of the Americas provides specialized training in resources management at the national level, small unit tactics, and technical skills. This latter type of skill training is responsive to particular needs of Latin American states.

3. Inter-American Air Force Academy (IAFFA): provided professional education in Spanish for officers and technical training in aeronautical specialties for airmen of all the Latin American Republics.

Technical training in Spanish is provided from the unskilled level through the full spectrum of proficiency to the supervisory level, including transition training in new weapons systems. Approximately five percent of the Academy's 100-member instructor corps is composed of guest instructors who assist United States Air Force officers and airmen in conducting the courses. Specialized transition training is offered in the A/T–37, C–130, and UH–1H.

4. Small Craft Instruction and Technical Team (SCIATT): provides to the navies of Central America training in the operation and maintenance of small size boats.

DONE at Washington, this 7th day of September, 1977, in duplicate, in the English and Spanish languages, both texts being equally authentic.

For the United States of America:

ELLSWORTH BUNKER.
SOL M. LINOWITZ.

For the Republic of Panama:

RÓMULO ESCOBAR BETHANCOURT.
ARISTIDES ROYO.

AGREEMENT PURSUANT TO ARTICLE VI OF THE CONVENTION ON NATURE PROTECTION AND WILDLIFE PRESERVATION IN THE WESTERN HEMISPHERE

The Governments of the United States of America and the Republic of Panama.

Recalling that both are parties to the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere of October 12, 1940;

Desiring to promote and advance the purposes of that Convention;

Noting that Article VI of the Convention provides that the Parties may, when circumstances warrant, enter into agreements with one another in order to increase the effectiveness of their collaboration to this end;

Aware of the unique importance to the international scientific community of the biological reserve located at Barro Colorado Island in Gatun Lake in the Republic of Panama; and

Considering that the Panama Canal Treaty and related agreements signed this date between them make desirable a further agreement between them to ensure preservation of this biological reserve;

Have agreed upon the following:

ARTICLE I

1. The area known as Barro Colorado Island in Gatun Lake in the Republic of Panama is declared to be a Nature Monument as defined in Article I of the Convention, to be known as the Barro Colorado Nature Monument. Upon the termination of the Panama Canal Treaty signed this date, this Nature Monument shall also include the adjacent areas known as Orchid and Point Salud Islands; Bohio, Buena Vista, and Frijoles Points; and the smaller islets adjacent to them. The aforementioned adjacent areas shall be made available during the life of the Panama Canal Treaty for the purposes of this Agreement, through the issuance of land use licenses, as provided for in Article IV of the Agreement in Implementation of Article III of the Panama Canal Treaty. The Republic of Panama shall issue an appropriate land use license or make other arrangements to afford similar use of the peninsula immediately south of Maiz Island, which upon termination of the Panama Canal Treaty, shall also become a part of the aforementioned Nature Monument.

2. As used hereafter in this Agreement, the term "Nature Monument" shall refer to the Nature Monument defined in paragraph 1 of this Article.

ARTICLE II

The Governments pledge themselves to seek, in accordance with their respective national legislative processes, such legislation by each of them as may be necessary to ensure the preservation and protection of the Nature Monument as envisioned in the Convention and to take no action which would derogate in any way from its protected status, except as hereinafter provided.

ARTICLE III

The Governments agree to collaborate in use of the Nature Monument for the purposes of scientific research and investigation, and to assist each other's scientists and scientific institutions in carrying out such activities in the Nature Monument. The Governments shall agree from time to time on such arrangements as may be mutually convenient and desirable to facilitate such collaboration.

ARTICLE IV

The Governments agree that, consistent with the purposes of Article VI of the Convention, they shall make available to all the American Republics equally through publication or otherwise the scientific knowledge resulting from their cooperative efforts to establish and maintain the Nature Monument.

ARTICLE V

The Governments, mindful of their mutual interest in the efficient operation of the Panama Canal, agree that, in executing their responsibilities under the Panama Canal Treaty, they shall take account of this Agreement. It is understood that use of areas included in the Nature Monument for the purpose of maintaining existing facilities relating to the operation of the Panama Canal shall not be considered to derogate from the protected status of the Nature Monument. In the event either Government at any time considers that the efficient operation of the Panama Canal necessitates any other action materially affecting any part of the Nature Monument, the Governments agree to consult promptly and to agree to measures necessary for the protection of the overall integrity of the Nature Monument and furtherance of the purpose of this Agreement.

ARTICLE VI

The Governments agree that they shall jointly transmit copies of this Agreement to the Inter-American Economic and Social Council of the Organization of American States, and shall request that the Organization notify the Contracting Parties to the Convention of this Agreement.

ARTICLE VII

This Agreement shall enter into force simultaneously with the entry into force of the Panama Canal Treaty, and shall remain in force for ten years and, thereafter, for as long as both Governments are parties to the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere.

DONE at Washington, this 7th day of September, 1977, in duplicate, in the English and Spanish languages, both texts being equally authentic.

For the United States of America:

ELLSWORTH BUNKER.
SOL M. LINOWITZ.

For the Republic of Panama:

RÓMULO ESCOBAR BETHANCOURT.
ARISTIDES ROYO.

NOTE REGARDING ECONOMIC AND MILITARY COOPERATION

DEPARTMENT OF STATE,
Washington.

His Excellency GABRIEL LEWIS GALINDO,
Ambassador of Panama.

EXCELLENCY: I have the honor to refer to our recent discussions concerning programs designed to enhance cooperation between the United States of America and the Republic of Panama in the economic and military spheres. As a result of these discussions, I am authorized to inform you that my government is prepared to agree, within the limitations of applicable United States legislation and subject to compliance with applicable legal requirements and, where necessary, to the availability of appropriate funds, that:

The United States Government will consider applications from the Republic of Panama for housing investment guarantees with a view to approval of specific projects with an aggregate value of not to exceed $75 million over a five year period. Approval of specific projects shall be subject to conformance with any applicable administrative and legislative criteria.

The Overseas Private Investment Corporation would guarantee borrowing of not to exceed $20 million in United States private capital by the National Finance Corporation of Panama (COFINA) for use in financing productive projects in the private sector in Panama, subject to terms and conditions as shall be agreed upon by the Overseas Private Investment Corporation and COFINA, and approved by the Overseas Private Investment Corporation's Board of Directors.

The Export-Import Bank of the United States is prepared to offer a letter of intent to provide loans, loan guarantees, and insurance, aggregating not to exceed $200 million over a five year period beginning October 1, 1977 and ending September 30, 1982, for the purpose of financing the U.S. export value of sales to Panama. Such financing shall, at the discretion of the Board of Directors of the Export-Import Bank, be in the form of loans, loan guarantees, or insurance for individual products or projects approved by such Board.

The United States Government will issue repayment guarantees under its foreign military sales program in order to facilitate the extension of loans to the Government of Panama by eligible lenders for the purpose of financing the purchase by the Government of Panama of defense articles and defense services. The aggregate principal amount of loans guaranteed by the United States Government in accordance with this paragraph shall not exceed $50 million over a ten year period.

It is understood that the undertakings of the United States provided for herein will enter into force upon the exchange of Notes to that effect between our two governments.

Accept, Excellency, the renewed assurance of my highest consideration.

CYRUS VANCE.

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EXCHANGE OF NOTES RELATING TO AIR TRAFFIC CONTROL SERVICES

DEPARTMENT OF STATE,
Washington, September 7, 1977.

His Excellency RÓMULO ESCOBAR BETHANCOURT,
Chief Negotiator.

EXCELLENCY: I have the honor to refer to the Panama Canal Treaty signed this date by representatives of the United States of America and the Republic of Panama. In that connection, my Government proposes that negotiations relating to continued air traffic control services commence as soon as possible and that a definitive arrangement on this subject be concluded prior to the exchange of instruments of ratification of the Panama Canal Treaty.

If the foregoing proposal is acceptable to the Government of Panama, I shall be grateful to have an affirmative response from Your Excellency.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

ELLSWORTH BUNKER,
Ambassador at Large.

[TRANSLATION]

EMBASSY OF PANAMA,
Washington, D.C., September 7, 1977.

His Excellency ELLSWORTH BUNKER,
Ambassador at Large of the United States of America.

EXCELLENCY: I have the honor to refer to your note of today's date concerning continued air traffic control services, and to confirm that my Government agrees to commence negotiations as soon as possible and to conclude a definitive arrangement on this subject prior to the exchange of instruments of ratification of the Panama Canal Treaty.

Accept, Excellency, the renewed assurances of my highest consideration.

RÓMULO ESCOBAR B.,
Chief Negotiator.

NOTE REGARDING THE ESTABLISHMENT OF THE PANAMA BUREAU OF THE UNITED STATES FOREIGN BROADCAST INFORMATION SERVICE

DEPARTMENT OF STATE,
Washington, September 7, 1977.

The Department of State of the United States of America has the honor to inform the foreign Ministry of the Republic of Panama that, upon the entry into force of the Panama Canal Treaty, it is the intention of the United States of America to establish the Panama Bureau of the United States Foreign Broadcast Information Service (FBIS) as an integral part of the Embassy of the United States of America in the Republic of Panama. The Bureau would form part of the diplomatic mission, in a manner similar to that of other agencies of the United States Government currently operating in the Republic of Panama, under the authority of the United States Ambassador.

The Foreign Broadcast Information Service is an agency of the United States Government with worldwide responsibility for monitoring and translating into English available foreign public media, including (a) transmissions by major press agencies, (b) public radio and television broadcasts, and (c) selected articles from newspapers and other publications. These translated materials are made available in the United States of America and abroad to interested persons in both governmental and private sectors. FBIS executes this responsibility from fourteen bureaus located in foreign countries, most of which are established as integral parts of the United States diplomatic missions to those countries.

The Panama Bureau of FBIS will have responsibility for providing this service for an area which includes most countries of Central America and northern South America, and a part of the African continent. The Bureau Staff currently consists of four United States citizen employees (a Bureau Chief, a Deputy Chief and two editors) assigned for rotational tours of two to four years. There are no locally-hired American employees. United States citizen personnel of the Bureau shall have the same privileges and immunities, and be subject to the same conditions, as other American personnel currently assigned to the various agencies forming parts of the Embassy of the United States of America in the Republic of Panama. the Bureau also currently employs three locally-hired third country nationals resident in Panama, and twenty-nine Panamanian citizens. FBIS anticipates no perceptible expansion of its American or local staff in the foreseeable future.

At the present time, the Panama Bureau of FBIS is located on a single parcel of land, comprising some 320 acres and including the Bureau office and the Chiva Chiva radio antenna field, located on the Fort Clayton Military Reservation.

E. B.

EXCHANGE OF NOTES RELATING TO THE GORGAS MEMORIAL INSTITUTE OF TROPICAL AND PREVENTIVE MEDICINE, INCORPORATED, AND TO THE GORGAS MEMORIAL LABORATORY

DEPARTMENT OF STATE,
Washington, September 7, 1977.

His Excellency RÓMULO ESCOBAR BETHANCOURT,
Chief Negotiator.

EXCELLENCY: I have the honor to refer to the Gorgas Memorial Institute of Tropical and Preventive Medicine, Incorporated, and its subsidiary, the Gorgas Memorial Laboratory. The Institute and Laboratory were established in memory of Dr. William C. Gorgas for research on diseases endemic to Central America and northern South America. The Institute receives from the Government of the United States an annual contribution in Dr. Gorgas' memory for the operation and maintenance of the Laboratory.

The Gorgas Memorial Laboratory is established and operates in Panama under provisions of Law 15 of October 16, 1930, Law 5 of February 5, 1953 and Law 84 of September 20, 1973 of the Republic of Panama. The Institute has informed the United States of its desire to continue its operations in Panama pursuant to the provisions of these laws.

I refer further to the Panama Canal Treaty and related agreements signed this date by representatives of the Governments of the United States and Panama, and, in that connection, propose that our Governments agree that, subsequent to the entry into force of the Treaty, the Gorgas Memorial Institute and Laboratory shall continue to enjoy the sole and exclusive use, without charge, of the following areas of lands and waters, and installations, being used by the Institute and Laboratory prior to the entry into force of the Treaty:

Juan Mina Plantation, approximately 15 acres of land, and one multi-purpose building situated thereon, located on the east side of the Charges River in the Balboa East District; and Building 265, a laboratory building adjacent to the Gorgas Hospital, Ancon, and adjacent land.

It is understood that this arrangement shall continue for an initial period of five years, and will be renewed upon request at least one year in advance by the Gorgas Memorial Institute.

I propose further that in the event the Republic of Panama establishes any means whereby any legal or natural person other than the Government of the Republic of Panama may acquire title under the laws of the Republic of Panama to any areas of lands and waters, or other real property located thereon, which prior to the entry into force of the Panama Canal Treaty formed part of the Canal Zone, our Governments agree that the Gorgas Memorial Institute shall be permitted by the Republic of Panama to acquire title to the above-mentioned areas the use of which it enjoys. Such title shall be accorded by the Republic of Panama pursuant to an arrangement not less favorable than that accorded by the Republic of Panama to any other such legal or natural person.

I propose further that our Governments agree to the issuance of a license to the Gorgas Memorial Institute in accordance with the procedures set forth in Article IV of the Agreement in Implementation of Article III of the Panama Canal Treaty to permit the use, without charge, by the Gorgas Memorial Laboratory to Abogado and Aojeta Islands, located in Gatun Lake, for the purposes of the Laboratory.

I further propose that our Governments agree that the United States may permit the Gorgas Memorial Institute and Laboratory to enjoy the privilege of making official purchases for the Laboratory's operations in the United States military commissaries and exchanges established pursuant to the Agreement in Implementation of Article IV of the Panama Canal Treaty, and that the United States may provide to the Institute and Laboratory for official purposes such other supplies or services of the United States Forces or the Panama Canal Commission as may be convenient. It is understood that this agreement will not extend to personal purchases by individual members of the staff and employees of the Gorgas Memorial Laboratory, regardless of their nationality.

If the foregoing proposals relating to the status and operations of the Gorgas Memorial Institute and Laboratory are acceptable to the Government of the Republic of Panama, I have the honor to propose that this note, and Your Excellency's affirmative response, shall constitute an agreement between our Governments concerning this matter, which will enter into force on the date of entry into force of the Panama Canal Treaty.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

ELLSWORTH BUNKER,
Ambassador at Large.

[TRANSLATION]

EMBASSY OF PANAMA,
Washington, D.C., September 7, 1977.

His Excellency ELLSWORTH BUNKER,
Ambassador at Large of the United States of America.

EXCELLENCY: I have the honor to acknowledge receipt of Your Excellency's note of today's date, which reads as follows:

[There follows Ambassador Bunker's note, quoted in English.]

I have the honor to confirm that my Government accepts the foregoing proposals, and that Your Excellency's note and this note shall constitute an agreement between our two Governments which will enter into force on the date of the entry into force of the Panama Canal Treaty.

Accept, Excellency, the renewed assurances of my highest consideration.

RÓMULO ESCOBAR B.,
Chief Negotiator.

EXCHANGE OF NOTES RELATING TO SCIENTIFIC ACTIVITIES IN PANAMA OF THE SMITHSONIAN TROPICAL RESEARCH INSTITUTE

DEPARTMENT OF STATE,
Washington, September 7, 1977.

His Excellency RÓMULO ESCOBAR BETHANCOURT,
Chief Negotiator.

EXCELLENCY: As you are aware, the Smithsonian Tropical Research Institute, a trust instrumentality of the United States of America, hereinafter called "the Institute," has, for several years, carried out experimental and research activities of an exclusively scientific nature in various parts of the Republic of Panama. Those activities are described and authorized in Contract No. 1, January 5, 1977, signed by Dr. Abraham Saied, Minister of Health, and Dr. Ira Rubinoff, Director of the Institute. As set forth in the seventh clause of the contract, its duration is indefinite, but it may be terminated if one of the parties so desires, provided that it notify the other one year in advance of the date selected for termination.

Despite the foregoing, it is obvious that the Institute's legal situation and the development of its activities will be affected by the entry into force of the Panama Canal Treaty and related agreements, signed September 7, 1977 by representatives of the Republic of Panama and the United States of America. In anticipation of that eventuality, I thought it pertinent to propose to you, in compliance with precise instructions from my Government, that the Republic of Panama and the United States of America agree on the

Institute's continuation of its scientific activities in the Republic of Panama, after entry into force of the Panama Canal Treaty and related agreements, in accordance with the provisions of the abovementioned contract and in order to achieve the objectives therein set forth.

The agreement which I present to you for consideration would remain in effect for five years from the date of the entry into force of the Panama Canal Treaty and would be extended automatically for 5 year periods until either Government gave notice of termination, at least one year before the date of automatic extension.

I consider it advisable to propose to Your Excellency that if one of the parties to the contract should wish to terminate it on the basis of the seventh clause thereof while the Panama Canal Treaty is in force, our Governments agree that, unless there is a mutual understanding to replace the contract, the contract and the agreement proposed in this note shall remain in force.

It could also be agreed, and I so propose to Your Excellency, that, if either party wishes to terminate the aforementioned contract after the expiration of the Panama Canal Treaty, our Governments shall immediately initiate consultations concerning the future legal situation of the Institute and its facilities, properties, and personnel in the Republic of Panama, before the contract expires.

With respect to facilities and land and water areas in various parts of the Isthmus of Panama listed and described in the annex to this note, the use of which has not been granted by the Republic of Panama to the United States of America by any other means, I propose that they be made available to the Institute for its exclusive use. It is understood that this agreement will not affect the right of the parties to the contract to enter into subsequent agreements on the terms of the Institute's utilization of other facilities and land and water areas in the Republic of Panama which the latter may consider it desirable to make available to the Institute for the uses and purposes defined in the contract.

I wish to propose that our Governments agree that, as long as the Panama Canal Treaty remains in force, the United States of America may permit the Institute to use any portion of the lands and waters, and of the facilities located therein, situated within the land and water areas the use of which is granted by the Treaty to the United States of America, for purposes of the aforementioned contract, subject to terms and conditions consistent with the Panama Canal Treaty, as the United States of America may define them.

I further wish to propose to Your Excellency that upon cessation, under the Panama Canal Treaty, of the right of the United States to use any land and water areas and facilities located therein which are being used by the Institute, our Governments immediately begin talks intended to reach agreements permitting the Institute to continue to use such areas of facilities.

The possibility should be considered, Your Excellency, that the Republic of Panama may establish procedures whereby any natural or legal person could acquire, in accordance with the laws of Panama, title to land and water areas or properties located therein which were formerly a part of the territory constituting the Panama Canal Zone. I therefore propose to you that, such being the case, our Governments agree that the Republic of Panama, subject to the applicable laws, shall grant the Institute rights, other than real property title, with respect to any land and water areas or properties in use by the Institute at the time when such procedures are established. These rights will be granted by the Republic of Panama by an agreement or other means, not less favorable than the most favorable granted by the Republic of Panama to any other natural or juristic person.

Finally, Your Excellency, I should like to propose that in the event that the Republic of Panama does not establish such procedures for transfer of title to land and water areas or properties located therein to natural or legal persons other than the Government of the Republic of Panama, the two Governments agree that the Government of the Republic of Panama shall place at the disposal of the Institute, free of cost, the use of all areas and facilities referred to in this letter, and any others that may be used by the Institute for the purposes defined in the aforementioned contract.

An exception will be made for cases in which the two Governments or the parties to the aforementioned contract might reach a mutual agreement on other terms.

If the aforementioned proposals relating to the operation in the Republic of Panama of the Smithsonian Tropical Research Institute are acceptable to your Government, I should like to propose that this note and Your Excellency's affirmative reply constitute an agreement between our Governments concerning this matter.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

ELLSWORTH BUNKER,
Ambassador at Large.

ANNEX

The following facilities and lands and waters shall be made available for the continued exclusive use of the Smithsonian Tropical Research Institute.

1. Smithsonian Tropical Research Institute Headquarters, shops, administrative offices, cages and laboratories on Gorgas Road.
2. Tivoli Site. Comprises approximately 4.8 acres at the site of the former Tivoli Hotel and adjacent Tivoli Kitchen structure.
3. Naos Island. All facilities and areas being used by the Smithsonian Tropical Research Institute on the date the Panama Canal Treaty enters into force.
4. Flamenco Island. All facilities and areas being used by the Smithsonian Tropical Research Institute on the date the Panama Canal Treaty enters in force.
5. Pipeline Road Reserve. Approximately 37 acres of land near Pipeline Road at coordinates PA 391116 (Sheet 4243 II, Gamboa).

[TRANSLATION]

EMBASSY OF PANAMA,
Washington, D.C., September 7, 1977.

His Excellency ELLSWORTH BUNKER,
Ambassador at Large of the United States of America.

EXCELLENCY: I have the honor to refer to Your Excellency's note of today's date concerning the activities of the Smithsonian Tropical Research Institute in the Republic of Panama, which reads as follows:

[There follows Ambassador Bunker's note, quoted in English.]

I have the honor to confirm the acceptance by my Government of the proposals contained in this note and its agreement that your note and this reply shall constitute an agreement between our two Governments.

Accept, Excellency, the renewed assurance of my highest consideration.

RÓMULO ESCOBAR B.,
Chief Negotiator.

EXCHANGE OF NOTES RELATING TO CUSTODIANSHIP OF THE BARRO COLORADO NATIVE MONUMENT BY THE SMITHSONIAN TROPICAL RESEARCH INSTITUTE

DEPARTMENT OF STATE,
Washington, September 7, 1977.

His Excellency RÓMULO ESCOBAR BETHANCOURT,
Chief Negotiator.

EXCELLENCY: I have the honor to refer to the Agreement pursuant to Article VI of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, and to the Panama Canal Treaty and related agreements signed on September 7, 1977 by representatives of the United States of America and the Republic of Panama. Article III of the Agreement relating to the Convention on Nature Protection provides that our Governments may agree from time to time on such arrangements as may be mutually convenient and desirable to facilitate their collaboration in the use of the Barro Colorado Nature Monument for the purposes of scientific research and investigation.

I consider it desirable within the spirit of the aforementioned Convention and for the purposes of the Agreement based thereon that our Governments agree that the Smithsonian Tropical Research Institute (STRI), a trust instrumentality of the United States of America, which I shall hereinafter call the Institute, be designated by both Governments as custodian of the Barro Colorado Nature Monument. I propose that our Governments further agree that the Institute shall, during the period of its custodianship, have sole responsibility to act on behalf of our Governments in authorizing use of the Nature Monument for the purposes of scientific research and investigation and for its protection as envisaged in the aforementioned Convention and our Agreement based thereon. In the event that one of the Parties should attempt to take any action related to the efficient operation of the Panama Canal as provided for in Article V of our Agreement, I propose that

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the Institute, as custodian, be advised in advance and invited to comment on the potential impact of such action on the overall integrity of the Nature Monument.

I consider it desirable and to that end I propose to Your Excellency that, during the period of its custodianship, the Institute be authorized to employ scientific and support staff, to include game wardens, as necessary to enforce such laws and regulations as may apply to the protection of the Nature Monument. Persons violating the integrity of the Nature Monument contrary to the provisions of such laws or regulations shall be promptly delivered to the authorities of the Republic of Panama by game wardens employed by the Institute for appropriate action under the laws of the Republic of Panama.

I further consider it desirable and I therefore propose to Your Excellency that our Governments agree to designate the Institute as custodian for the Barro Colorado Nature Monument for an initial period of five years, to be extended for additional 5-year periods upon request by the Institute at least one year in advance of the date of expiration of the period, or until such time as our Governments may mutually agree on other understandings for the administration of the Nature Monument. If, subsequent to the termination of the Panama Canal Treaty, the Republic of Panama should desire to terminate the custodianship of the Institute of the Nature Monument, I consider it desirable and I therefore propose that our Governments agree that the decision take effect one year after the day on which the Republic of Panama shall inform the United States of this intent.

If the foregoing understanding proposed for custodianship of the Barro Colorado Nature Monument by STRI are acceptable to the Government of the Republic of Panama, I propose that this note and Your Excellency's affirmative response constitute an agreement between our Governments concerning this matter.

Accept, Excellency, the renewed assurance of my highest consideration.

For the Secretary of State:

ELLSWORTH BUNKER,
Ambassador at Large.

[TRANSLATION]

EMBASSY OF PANAMA,
Washington, D.C., September 7, 1977.

His Excellency ELLSWORTH BUNKER,
Ambassador at Large of the United States of America.

EXCELLENCY: I have the honor to refer to Your Excellency's note of today's date concerning the designation of the Smithsonian Tropical Research Institute as custodian of the Barro Colorado Nature Monument, which reads as follows:

[There follows Ambassador Bunker's note, quoted in English.]

I have the honor to confirm that my Government accepts the understanding set forth in Your Excellency's note, and that your note and this note in reply shall constitute an agreement between our two Governments.

Accept, Excellency, the renewed assurances of my highest consideration.

Rómulo Escobar B.,
Chief Negotiator.

c. Resolutions of Ratification

(1) Resolution of Ratification to the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, together with Annexes A and B thereto and the Protocol relating thereto, done at Washington on September 7, 1977 (Executive N, Ninety-fifth Congress, first session) subject to the following—

(a) AMENDMENTS:

(1) At the end of Article IV, insert the following:

"A correct and authoritative statement of certain rights and duties of the Parties under the foregoing is contained in the Statement of Understanding issued by the Government of the United States of America on October 14, 1977, and by the Government of the Republic of Panama on October 18, 1977, which is hereby incorporated as an integral part of this Treaty, as follows:

" 'Under the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (the Neutrality Treaty), Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure to ships of all nations. The correct interpretation of this principle is that each of the two countries shall, in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

" 'This does not mean, nor shall it be interpreted as, a right of intervention of the United States in the internal affairs of Panama. Any United States action will be directed at insuring that the Canal will remain open, secure, and accessible, and it shall never be directed against the territorial integrity or political independence of Panama.'."

(2) At the end of the first paragraph of Article VI, insert the following:

"In accordance with the Statement of Understanding mentioned in Article IV above: 'The Neutrality Treaty provides that the vessels of war and auxiliary vessels of the United States and Panama will be entitled to transit the Canal expeditiously. This is intended, and it shall so be interpreted, to assure the transit of vessels through the Canal as quickly as possible, without any impediment, with expedited treatment,

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and in case of need or emergency, to go to the head of the line of vessels in order to transmit the Canal rapidly.'."

(b) CONDITIONS:

(1) Notwithstanding the provisions of Article V or any other provision of the Treaty, if the Canal is closed, or its operations are interfered with, the United States of America and the Republic of Panama, shall each independently have the right to take such steps as each deems necessary, in accordance with its constitutional processes, including the use of military force in the Republic of Panama, to reopen the Canal or restore the operations of the Canal, as the case may be.

(2) The instruments of ratification of the Treaty shall be exchanged only upon the conclusion of a Protocol of Exchange, to be signed by authorized representatives of both Governments, which shall constitute an integral part of the Treaty documents and which shall include the following:

> "Nothing in the Treaty shall preclude the Republic of Panama and the United States of America from making, in accordance with their respective constitutional processes, any agreement or arrangement between the two countries to facilitate performance at any time after December 31, 1999, of their responsibilities to maintain the regime of neutrality established in the Treaty, including agreements or arrangements for the stationing of any United States military forces or the maintenance of defense sites after that date in the Republic of Panama that the Republic of Panama and the United States of America may deem necessary or appropriate.".

(c) RESERVATIONS:

(1) Before the date of entry into force of the Treaty, the two Parties shall begin to negotiate for an agreement under which the American Battle Monuments Commission would, upon the date of entry into force of such agreement and thereafter, administer, free of all taxes and other charges and without compensation to the Republic of Panama and in accordance with the practices, privileges, and immunities associated with the administration of cemeteries outside the United States of America by the American Battle Monuments Commission, including the display of the flag of the United States of America, such part of Corozal Cemetery in the former Canal Zone as encompasses the remains of citizens of the United States of America.

(2) The flag of the United States of America may be displayed, pursuant to the provisions of paragraph 3 of Article VII of the Panama Canal Treaty, at such part of Corozal Cemetery in the former Canal Zone as encompasses the remains of citizens of the United States of America.

(3) The President—

(A) shall have announced, before the date of entry into force of the Treaty, his intention to transfer, consistent with an agreement with the Republic of Panama, and before the date of termination of the Panama Canal Treaty, to the American Battle Monuments Commission the administration of such part of Corozal Cemetery as encompasses the remains of citizens of the United States of America; and

(B) shall have announced, immediately after the date of exchange of the instrument of ratification, plans, to be carried out at the expense of the Government of the United States of America, for—

(i) removing, before the date of entry into force of the Treaty, the remains of citizens of the United States of America from Mount Hope Cemetery to such part of Corozal Cemetery as encompasses such remains, except that the remains of any citizen whose next of kin objects in writing to the Secretary of the Army not later than three months after the date of exchange of the instruments of ratification of the Treaty shall not be removed; and

(ii) transporting to the United States of America for reinterment, if the next of kin so requests, not later than thirty months after the date of entry into force of the Treaty, any such remains encompassed by Corozal Cemetery and, before the date of entry into force of the Treaty, any remains removed from Mount Hope Cemetery pursuant to subclause (i); and

(C) shall have fully advised, before the date of entry into force of the Treaty, the next of kin objecting under clause (B)(i) of all available options and their implications.

(4) To carry out the purposes of Article III of the Treaty of assuring the security, efficiency, and proper maintenance of the Panama Canal, the United States of America and the Republic of Panama, during their respective periods of responsibility for Canal operation and maintenance, shall, unless the amount of the operating revenues of the Canal exceeds the amount needed to carry out the purposes of such Article, use such revenues of the Canal only for purposes consistent with the purposes of Article III.

(d) UNDERSTANDINGS:

(1) Paragraph 1(c) of Article III of the Treaty shall be construed as requiring, before any adjustment in tolls for use of the Canal, that the effects of any such toll adjustment on the trade patterns of the two Parties shall be given full consideration, including consideration of the following factors in a manner consistent with the regime of neutrality:

(A) the costs of operating and maintaining the Panama Canal;

(B) the competitive position of the use of the Canal in relation to other means of transportation;

(C) the interests of both Parties in maintaining their domestic fleets;

(D) the impact of such an adjustment on the various geographical areas of each of the two Parties; and

(E) the interests of both Parties in maximizing their international commerce.

The United States of America and the Republic of Panama shall cooperate in exchanging information necessary for the consideration of such factors.

(2) The agreement "to maintain the regime of neutrality established in this Treaty" in Article IV of the Treaty means that either of the two Parties to the Treaty may, in accordance with its constitutional processes, take unilateral action to defend the Panama Canal against any threat, as determined by the Party taking such action.

(3) The determination of "need or emergency" for the purpose of any vessel of war or auxiliary vessel of the United States of America or the Republic of Panama going to the head of the line of vessels in order to transit the Panama Canal rapidly shall be made by the nation operating such vessel.

(4) Nothing in the Treaty, in Annex A or B thereto, in the Protocol relating to the Treaty, or in any agreement relating to the Treaty, obligates the United States of America to provide any economic assistance, military grant assistance, security supporting assistance, foreign military sales credits, or international military education and training education and training to the Republic of Panama.

(5) The President shall include all amendments, conditions, reservations, and understandings incorporated by the Senate in this resolution of ratification in the instrument of ratification to be exchanged with the Government of the Republic of Panama.

Attest:

———— ————,

Secretary.

(2) Resolution of Ratification to the Panama Canal Treaty

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Panama Canal Treaty, together with the Annex and Agreed Minute relating thereto, done at Washington on September 7, 1977 (Executive N, Ninety-fifth Congress, first session), subject to the following—

(a) RESERVATIONS:

(1) Pursuant to its adherence to the principle of nonintervention, any action taken by the United States of America in the exercise of its rights to assure that the Panama Canal shall remain open, neutral, secure, and accessible, pursuant to the provisions of the Panama Canal Treaty, the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, and the resolutions of ratification thereto, shall be only for the purpose of assuring that the Canal shall remain open, neutral, secure, and accessible, and shall not have as its purpose or be interpreted as a right of intervention in the internal affairs of the Republic of Panama or interference with its political independence or sovereign integrity.

(2) The instruments of ratification of the Panama Canal Treaty to be exchanged by the United States of America and the Republic of Panama shall each include provisions whereby each party agrees to waive its right and release the other Party from its obligations under paragraph 2 of Article XII of the Treaty.

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(3) Notwithstanding any provision of the Treaty, no funds may be drawn from the Treasury of the United States of America for payment under paragraph 4 of Article XIII without statutory authorization.

(4) Any accumulated unpaid balance under paragraph 4(c) of Article XIII of the Treaty at the date of termination of the Treaty shall be payable only to the extent of any operating surplus in the last year of the duration of the Treaty, and nothing in such paragraph may be construed as obligating the United States of America to pay, after the date of the termination of the Treaty, any such unpaid balance which shall have accrued before such date.

(5) Exchange of the instruments of ratification of the Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal shall not be effective earlier than March 31, 1979, and such Treaties shall not enter into force prior to October 1, 1979, unless legislation necessary to implement the provisions of the Panama Canal Treaty shall have been enacted by the Congress of the United States of America before March 31, 1979.

(6) After the date of entry into force of the Treaty, the Panama Canal Commission shall, unless otherwise provided by legislation enacted by the Congress of the United States of America, be obligated to reimburse the Treasury of the United States of America, as nearly as possible, for the interest costs of the funds or other assets directly invested in the Commission by the Government of the United States of America and for the interest cost of the funds or other assets directly invested in the predecessor Panama Canal Company by the Government of the United States of America and not reimbursed before the date of entry into force of the Treaty. Such reimbursement for such interest costs shall be made at a rate determined by the Secretary of the Treasury of the United States of America and at annual intervals to the extent earned, and if not earned, shall be made from subsequent earnings. For purposes of this reservation, the phrase "funds or other assets directly invested" shall have the same meaning as the phrase "net direct investment" has under section 62 of title 2 of the Canal Zone Code.

(b) UNDERSTANDINGS:

(1) Before the first day of the three-year period beginning on the date of entry into force of the Treaty and before each three-year period following thereafter, the two Parties shall agree upon specific levels and quality of services, as are referred to in paragraph 5 of Article III of the Treaty, to be provided during the following three-year period and, except for the first three-year period, on the reimbursement to be made for the costs of such services, such services to be limited to such as are essential to the effective functioning of the Canal operating areas and the housing areas referred to in paragraph 5 of Article III. If payments made under paragraph 5 of Article III for the preceding three-year period, including the initial three-year period, exceed or are less than the actual costs to the Republic of Panama for supplying, during such period, the

specific levels and quality of services agreed upon, then the Panama Canal Commission shall deduct from or add to the payment required to be made to the Republic of Panama for each of the following three years one-third of such excess or deficit, as the case may be. There shall be an independent and binding audit, conducted by an auditor mutually selected by both Parties, of any costs of services disputed by the two Parties pursuant to the reexamination of such costs provided for in this understanding.

(2) Nothing in paragraph 3, 4, or 5 of Article IV of the Treaty may be construed to limit either the provisions of the first paragraph of Article IV providing that each Party shall act, in accordance with its constitutional processes, to meet danger threatening the security of the Panama Canal, or the provisions of paragraph 2 of Article IV providing that the United States of America shall have primary responsibility to protect and defend the Canal for the duration of the Treaty.

(3) Nothing in paragraph 4(c) of Article XIII of the Treaty shall be construed to limit the authority of the United States of America, through the United States Government agency called the Panama Canal Commission, to make such financial decisions and incur such expenses as are reasonable and necessary for the management, operation, and maintenance of the Panama Canal. In addition, toll rates established pursuant to paragraph 2(d) of Article III need not be set at levels designed to produce revenues to cover the payment to the Republic of Panama described in paragraph 4(c) of Article III.

(4) Any agreement concluded pursuant to paragraph 11 of Article IX of the Treaty with respect to the transfer of prisoners shall be concluded in accordance with the constitutional processes of both Parties.

(5) Nothing in the Treaty, in the Annex or Agreed Minute relating to the Treaty, or in any other agreement relating to the Treaty obligates the United States of America to provide any economic assistance, military grant assistance, security supporting assistance, foreign military sales credits, or international military education and training to the Republic of Panama.

(6) The President shall include all reservations and understandings incorporated by the Senate in this resolution of ratification in the instrument of ratification to be exchanged with the Government of the Republic of Panama.

[redacted]

Attest:

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L. LAW OF THE SEAS AND SELECTED MARITIME LEGISLATION

CONTENTS

Page

1. Law of the Seas 1005
    - a. Convention on the Territorial Sea and the Contiguous Zone 1005
    - b. Convention on the High Seas 1013
    - c. Convention on Fishing and Conservation of the Living Resources of the High Seas (with reservation) 1022
    - d. Convention on the Continental Shelf 1030
    - e. Treaty between the Government of the United States and the Government of Canada concerning Pacific Salmon 1034

NOTE.—Conventions and agreements referred to by Acts in this section may be researched according to the conventional citations to such materials or by consulting the compilation *Treaties and Other International Agreements on Fisheries, Oceanographic Resources, and Wildlife Involving the United States*. U.S. Congress. Senate. Committee on Commerce, Science, and Transportation. Prepared by the Congressional Research Service, Library of Congress. Washington, U.S. Govt. Printing Off., 1977 (95th Congress, 1st Session. Committee Print, October 1977).

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1004

1. Law of the Seas

a. Convention on the Territorial Sea and the Contiguous Zone[1]

Done at Geneva April 29, 1958; Ratification advised by the Senate of the United States of America May 26, 1960; Ratified by the President of the United States of America March 24, 1961; Ratification of the United States of America deposited with the Secretary-General of the United Nations April 12, 1961; Proclaimed by the President of the United States of America September 8, 1964; Entered into force September 10, 1964

The States Parties to this Convention have agreed as follows:

PART I—TERRITORIAL SEA

SECTION I. GENERAL

Article 1

1. The sovereignty of a State extends, beyond its land territory and its internal waters, to a belt of sea adjacent to its coast, described as the territorial sea.

2. This sovereignty is exercised subject to the provisions of these articles and to other rules of international law.

Article 2

The sovereignty of a coastal State extends to the air space over the territorial sea as well as to its bed and subsoil.

SECTION II. LIMITS OF THE TERRITORIAL SEA

Article 3

Except where otherwise provided in these articles, the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State.

Article 4

1. In localities where the coast line is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured.

2. The drawing of such baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the regime of internal waters.

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[1] 15 UST 1606; TIAS 5639; 516 UNTS 205.

3. Baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them.

4. Where the method of straight baselines is applicable under the provisions of paragraph 1, account may be taken, in determining particular baselines, of economic interests peculiar to the region concerned, the reality and the importance of which are clearly evidenced by a long usage.

5. The system of straight baselines may not be applied by a State in such a manner as to cut off the high seas the territorial sea of another State.

6. The coastal State must clearly indicate straight baselines on charts, to which due publicity must be given.

Article 5

1. Waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State.

2. Where the establishment of a straight baseline in accordance with article 4 has the effect of enclosing as internal waters areas which previously had been considered as part of the territorial sea or of the high seas, a right of innocent passage, as provided in articles 14 to 23, shall exist in those waters.

Article 6

The outer limit of the territorial sea is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea.

Article 7

1. This article relates only to bays the coasts of which belong to a single State.

2. For the purposes of these articles, a bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain landlocked waters and constitute more than a mere curvature of the coast. An indentation shall not, however, be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation.

3. For the purpose of measurement, the area of an indentation is that lying between the low-water mark around the shore of the indentation and a line joining the low-water marks of its natural entrance points. Where, because of the presence of islands, an indentation has more than one mouth, the semi-circle shall be drawn on a line as long as the sum total of the lengths of the lines across the different mouths. Islands within an indentation shall be included as if they were part of the water areas of the indentation.

4. If the distance between the low-water marks of the natural entrance points of a bay does not exceed twenty-four miles, a closing line may be drawn between these two low-water marks, and the waters enclosed thereby shall be considered as internal waters.

5. Where the distance between the low-water marks of the natural entrance points of a bay exceeds twenty-four miles, a straight

baseline of twenty-four miles shall be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

6. The foregoing provisions shall not apply to so-called "historic" bays, or in any case where the straight baseline system provided for in article 4 is applied.

Article 8

For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form an integral part of the harbour system shall be regarded as forming part of the coast.

Article 9

Roadsteads which are normally used for the loading, unloading and anchoring of ships, and which would otherwise be situated wholly or partly outside the outer limit of the territorial sea, are included in the territorial sea. The coastal State must clearly demarcate such roadsteads and indicate then on charts together with their boundaries, to which due publicity must be given.

Article 10

1. An island is a naturally-formed area of land, surrounded by water, which is above water at high-tide.

2. The territorial sea of an island is measured in accordance with the provisions of these articles.

Article 11

1. A low-tide elevation is a naturally-formed area of land which is surrounded by and above water at low-tide but submerged at high-tide. Where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the mainland or an island, the low-water line on that elevation may be used as the baseline for measuring the breadth of the territorial sea.

2. Where a low-tide elevation is wholly situated at a distance exceeding the breadth of the territorial sea from the mainland or an island, it has no territorial sea of its own.

Article 12

1. Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The provisions of this paragraph shall not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance with this provision.

2. The line of delimitation between the territorial seas of two States lying opposite to each other or adjacent to each other shall

be marked on large-scale charts officially recognized by the coastal States.

Article 13

If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-tide line of its banks.

SECTION III. RIGHT OF INNOCENT PASSAGE

Sub-section A. Rules Applicable to All Ships

Article 14

1. Subject to the provisions of these articles, ships of all States, whether coastal or not, shall enjoy the right of innocent passage through the territorial sea.

2. Passage means navigation through the territorial sea for the purpose either of traversing that sea without entering internal waters, or of proceeding to internal waters, or of making for the high seas from internal waters.

3. Passage includes stopping and anchoring, but only insofar as the same are incidental to ordinary navigation or are rendered necessary by *force majeure* or by distress.

4. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with these articles and with other rules of international law.

5. Passage of foreign fishing vessels shall not be considered innocent if they do not observe such laws and regulations as the coastal State may make and publish in order to prevent these vessels from fishing in the territorial sea.

6. Submarines are required to navigate on the surface and to show their flag.

Article 15

1. The coastal State must not hamper innocent passage through the territorial sea.

2. The coastal State is required to give appropriate publicity to any dangers to navigation, of which it has knowledge, within its territorial sea.

Article 16

1. The coastal State may take the necessary steps in its territorial sea to prevent passage which is not innocent.

2. In the case of ships proceeding to internal waters, the coastal State shall also have the right to take the necessary steps to prevent any breach of the conditions to which admission of those ships to those waters in subject.

3. Subject to the provisions of paragraph 4, the coastal State may, without discrimination amongst foreign ships, suspend temporarily in specified areas of its territorial sea the innocent passage of foreign ships if such suspension is essential for the protection of

its security. Such suspension shall take effect only after having been duly published.

4. There shall be no suspension of the innocent passage of foreign ships through straits which are used for international navigation between one part of the high seas and another part of the high seas or the territorial sea of a foreign State.

Article 17

Foreign ships exercising the right of innocent passage shall comply with the laws and regulations enacted by the coastal State in conformity with these articles and other rules of international law and, in particular, with such laws and regulations relating to transport and navigation.

Sub-section B. Rules Applicable to Merchant Ships

Article 18

1. No charge may be levied upon foreign ships by reason only of their passage through the territorial sea.

2. Charges may be levied upon a foreign ship passing through the territorial sea as payment only for specific services rendered to the ship. These charges shall be levied without discrimination.

Article 19

1. The criminal jurisdiction of the coastal State should not be exercised on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed on board the ship during its passage, save only in the following cases:

(*a*) If the consequences of the crime extend to the coastal State; or

(*b*) If the crime is of a kind to disturb the peace of the country or the good order of the territorial sea; or

(*c*) If the assistance of the local authorities has been requested by the captain of the ship or by the counsul of the country whose flag the ship flies; or

(*d*) If it is necessary for the suppression of illicit traffic in narcotic drugs.

2. The above provisions do not affect the right of the coastal State, to take any steps authorized by its laws for the purpose of an arrest or investigation on board a foreign ship passing through the territorial sea after leaving internal waters.

3. In the cases provided for in paragraphs 1 and 2 of this article, the coastal State shall, if the captain so requests, advise the consular authority of the flag State before taking any steps, and shall facilitate contact between such authority and the ship's crew. In cases of emergency this notification may be communicated while the measures are being taken.

4. In considering whether or how an arrest should be made, the local authorities shall pay due regard to the interest of navigation.

5. The coastal State may not take any steps on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed

before the ship entered the territorial sea, if the ship, proceeding from a foreign port, is only passing through the territorial sea without entering internal waters.

Article 20

1. The coastal State should not stop or divert a foreign ship passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.

2. The coastal State may not levy execution against or arrest the ship for the purpose of any civil proceedings, save only in respect of obligations or liabilities assumed or incurred by the ship itself in the course or for the purpose of its voyage through the waters of the coastal State.

3. The provisions of the previous paragraph are without prejudice to the right of the coastal State, in accordance with its laws, to levy execution against or to arrest, for the purpose of any civil proceedings, a foreign ship lying in the territorial sea, or passing through the territorial sea after leaving internal waters.

Sub-section C. Rules Applicable to Government Ships Other Than Warships

Article 21

The rules contained in sub-sections A and B shall also apply to government ships operated for commercial purposes.

Article 22

1. The rule contained in sub-section A and in article 18 shall apply to government ships operated for non-commercial purposes.

2. With such exceptions as are contained in the provisions referred to in the preceding paragraph, nothing in these articles affects the immunities which such ships enjoy under these articles or other rules of international law.

Sub-section D. Rule Applicable to Warships

Article 23

If any warship does not comply with the regulations of the coastal State concerning passage through the territorial sea and disregards any request for compliance which is made to it, the coastal State may require the warship to leave the territorial sea.

PART II—CONTIGUOUS ZONE

Article 24

1. In a zone of the high sea continguous to its territorial sea, the coastal State may exercise the control necessary to:

(*a*) Prevent infringement of its customs, fiscal, immigration or sanitary regulations within its territory or territorial sea;

(*b*) Punish infringement of the above regulations committed within its territory or territorial sea.

2. The contiguous zone may not extend beyond twelve miles from the baseline from which the breadth of the territorial sea is measured.

3. Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its contiguous zone beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of the two States is measured.

PART III—FINAL ARTICLES

Article 25

The provisions of this Convention shall not affect conventions or other international agreements already in force, as between States Parties to them.

Article 26

This convention shall, until 31 October 1958, be open for signature by all States Members of the United Nations or of any of the specialized agencies, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention.

Article 27

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 28

This Convention shall be open for accession by any States belonging to any of the categories mentioned in article 26. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 29

1. This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 30

1. After the expiration of a period of five years from the date on which this Convention shall enter into force, a request for the revision of this Convention may be made at any time by any Contract-

ing Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

Article 31

The Secretary-General of the United Nations shall inform all States Members of the United Nations and the other States referred to in article 26:

(*a*) Of signatures to this Convention and of the deposit of instruments of ratification or accession, in accordance with articles 26, 27 and 28;

(*b*) Of the date on which this Convention will come into force, in accordance with article 29;

(*c*) Of requests for revision in accordance with article 30.

Article 32

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 26.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

DONE at Geneva, this twenty-ninth day of April one thousand nine hundred and fifty-eight.

b. Convention on the High Seas [1]

Done at Geneva April 29, 1958; Ratification advised by the Senate of the United States of America May 26, 1960; Ratified by the President of the United States of America March 24, 1961; Ratification of the United States of America deposited with the Secretary-General of the United Nations April 12, 1961; Proclaimed by the President of the United States of America November 9, 1962; Entered into force September 30, 1962

The States Parties to this convention,

Desiring to codify the rules of international law relating to the high seas,

Recognizing that the United Nations Conference on the Law of the Sea, held at Geneva from 24 February to 27 April 1958, adopted the following provisions as generally declaratory of established principles of international law,

Have agreed as follows:

Article 1

The term "high seas" means all parts of the sea that are not included in the territorial sea or in the internal waters of a State.

Article 2

The High seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty. Freedom of the high seas is exercised under the conditions laid down by these articles and by the other rules of international law. It comprises, *inter alia,* both for coastal and non-coastal States:

(1) Freedom of navigation;
(2) Freedom of fishing;
(3) Freedom to lay submarine cables and pipelines;
(4) Freedom to fly over the high seas.

These freedoms, and others which are recognized by the general principles of international law shall be exercised by all States with reasonable regard to the interests of other States in their exercise of the freedom of the high seas.

Article 3

1. In order to enjoy the freedom of the seas on equal terms with coastal States, States having no sea-coast should have free access to the sea. To this end States situated between the sea and a State having no sea-coast shall by common agreement with the latter and in the conformity with existing international convention accord:

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[1] 13 UST 2312; TIAS 5200; 450 UNTS 82. The text of the convention printed herein constituted Annex II to the Final Act of the United Nations Conference on the Law of the Sea, which was certified by the Legal Counsel, for the Secretary-General of the United Nations.

(*a*) To the State having no sea-coast, on a basis of reciprocity, free transit through their territory; and

(*b*) To ships flying the flag of that State treatment equal to that accorded to their own ships, or to the ships of any other States, as regards access to seaports and the use of such ports.

2. States situated between the sea and a State having no sea-coast shall settle, by mutual agreement with the latter, and taking into account the rights of the coastal State or State of transit and the special conditions of the State having no sea-coast, all matters relating to freedom of transit and equal treatment in ports, in case such States are not already parties to existing international conventions.

Article 4

Every State, whether coastal or not, has the right to sail ships under its flag on the high seas.

Article 5

1. Each State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship; in particular, the State must effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.

2. Each State shall issue to ships to which it has granted the right to fly its flag documents to that effect.

Article 6

1. Ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in these articles, shall be subject to its exclusive jurisdiction on the high seas. A ship may not change its flag during a voyage or while in a port of call, save in the case of a real transfer of ownership or change of registry.

2. A ship which sails under the flags of two or more States, using them according to convenience, may not claim any of the nationalities in question with respect to any other State, and may be assimilated to a ship without nationality.

Article 7

The provision of the preceding articles do not prejudice the question of ships employed on the official service of an inter-governmental organization flying the flag of the organization.

Article 8

1. Warships on the high seas have complete immunity from the jurisdiction of any State other than the flag State.

2. For the purposes of these articles, the term "warship" means a ship belonging to the naval forces of a State and bearing the external marks distinguishing warships of its nationality, under the command of an officer duly commissioned by the government and

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whose name appears in the Navy List, and manned by a crew who are under regular naval discipline.

Article 9

Ships owned or operated by a State and used only on government non-commercial service shall, on the high seas, have complete immunity from the jurisdiction of any State other than the flag State.

Article 10

1. Every State shall take such measures for ships under its flag as are necessary to ensure safety at sea with regard *inter alia* to:

(*a*) The use of signals, the maintenance of communications and the prevention of collisions;

(*b*) The manning of ships and labour conditions for crews taking into account the applicable international labour instruments;

(*c*) The construction, equipment and seaworthiness of ships.

2. In taking such measures each State is required to conform to generally accepted international standards and to take any steps which may be necessary to ensure their observance.

Article 11

1. In the event of a collision or of any other incident of navigation concerning a ship on the high seas, involving the penal or disciplinary responsibility of the master or of any other person in the service of the ship, no penal or disciplinary proceedings may be instituted against such persons except before the judicial or administrative authorities either of the flag State or of the State of which such person is a national.

2. In disciplinary matters, the State which has issued a master's certificate or a certificate of competence or license shall alone be competent, after due legal process, to pronounce the withdrawal of such certificates, even if the holder is not a national of the State which issued them.

3. No arrest or detention of the ship, even as a measure of investigation, shall be ordered by any authorities other than those of the flag State.

Article 12

1. Every State shall require the master of a ship sailing under its flag, in so far as he can do so without serious danger to the ship, the crew, or the passengers,

(*a*) To render assistance to any person found at sea in danger of being lost;

(*b*) To proceed with all possible speed to the rescue of persons in distress if informed of their need of assistance, in so far as such action may reasonably be expected of him;

(*c*) After a collision, to render assistance to the other ship, her crew and her passengers and, where possible to inform the other ship of the name of his own ship, her port of registry and the nearest port at which she will call.

2. Every coastal State promote the establishment and maintenance of an adequate and effective search and rescue service re-

garding safety on and over the sea and—where circumstances so require—by way of mutual regional arrangements co-operate with neighbouring States for this purpose.

Article 13

Every State shall adopt effective measures to prevent and punish the transport of slaves in ships authorized to fly its flag, and to prevent the unlawful use of its flag for that purpose. Any slave taking refuge on board any ship, whatever its flag, shall *ipso facto* be free.

Article 14

All States shall co-operate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State.

Article 15

Piracy consists of any of the following acts:

(1) Any illegal acts of violence, detention or any act depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

- (*a*) On the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
- (*b*) Against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;

(2) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;

(3) Any act of inciting or of intentionally facilitating an act described in sub-paragraph 1 or sub-paragraph 2 of this article.

Article 16

The acts of piracy, as defined in article 15, committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private ship.

Article 17

A ship or aircraft is considered a pirate ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in article 15. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that act.

Article 18

A ship or aircraft may retain its nationality although it has become a pirate ship or aircraft. The retention or loss of nationality is determined by the law of the State from which such nationality was derived.

Article 19

On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.

Article 20

Where the seizure of a ship or aircraft on suspicion of piracy has been effected without adequate grounds, the State making the seizure shall be liable to the State the nationality of which is possessed by the ship or aircraft, for any loss or damage caused by the seizure.

Article 21

A seizure on account of piracy may only be carried out by warships or military aircraft, or other ships or aircraft on government service authorized to that effect.

Article 22

1. Except where acts of interference derive from powers conferred by treaty, a warship which encounters a foreign merchant ship on the high seas is not justified in boarding her unless there is reasonable ground for suspecting:

(*a*) That the ship is engaged in piracy; or

(*b*) That the ship is engaged in the slave trade; or

(*c*) That, though flying a foreign flag or refusing to show its flag, the ship is, in reality, of the same nationality as the warship.

2. In the cases provided for in sub-paragraphs (*a*), (*b*) and (*c*) above, the warship may proceed to verify the ship's right to fly its flag. To this end, it may send a boat under the command of an officer to the suspected ship. If suspicion remains after the documents have been checked, it may proceed to a further examination on board the ship, which must be carried out with all possible consideration.

3. If the suspicions prove to be unfounded, and provided that the ship boarded has not committed any act justifying them, it shall be compensated for any loss or damage that may have been sustained.

Article 23

1. The hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State. Such pursuit must be commenced when the foreign ship or one of its boats is within the internal waters or the territorial sea or the contiguous zone of the pursuing State, and may only be continued outside the territorial sea or the contiguous zone if the pursuit has not been interrupted. It is not necessary that, at the time

when the foreign ship within the territorial sea or the contiguous zone receives that order to stop, the ship given the order should likewise be within the territorial sea or the contiguous zone. If the foreign ship is within a contiguous zone, as defined in article 24 of the Convention on the Territorial Sea and the Contiguous Zone, the pursuit may only be undertaken if there has been a violation of the rights for the protection of which the zone was established.

2. The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own country or of a third State.

3. Hot pursuit is not deemed to have begun unless the pursuing ship has satisfied itself by such practicable means as may be available that the ship pursued or one of its boats or other craft working as a team and using the ship pursued as a mother ship are within the limits of the territorial sea, or as the case may be within the contiguous zone. The pursuit may only be commenced after a visual or auditory signal to stop has been given at a distance which enables it to be seen or heard by the foreign ship.

4. The right of hot pursuit may be exercised only by warships or military aircraft, or other ships or aircraft on government service specially authorized to that effect.

5. Where hot pursuit is effected by an aircraft:

(*a*) The provisions of paragraph 1 to 3 of this article shall apply *mutatis mutandis;*

(*b*) The aircraft giving the order to stop must itself actively pursue the ship until a ship or aircraft of the coastal State, summoned by the aircraft, arrives to take over the pursuit, unless the aircraft is itself able to arrest the ship. It does not suffice to justify an arrest on the high seas that the ship was merely sighted by the aircraft as an offender or suspected offender, if it was not both ordered to stop and pursued by the aircraft itself or other aircraft or ships which continue the pursuit without interruption.

6. The release of a ship arrested within the jurisdiction of a State and escorted to a port of that State for the purposes of an enquiry before the competent authorities may not be claimed solely on the ground that the ship, in the course of its voyage, was escorted across a portion of the high seas, if the circumstances rendered this necessary.

7. Where a ship has been stopped or arrested on the high seas in circumstances which do not justify the exercise of the right of hot pursuit, it shall be compensated for any loss or damage that may have been thereby sustained.

Article 24

Every State shall draw up regulations to prevent pollution of the seas by the discharge of oil from ships or pipelines or resulting from the exploitation and exploration of the seabed and its subsoil, taking account of existing treaty provisions on the subject.

Article 25

1. Every State shall take measures to prevent pollution of the seas from the dumping of radioactive waste, taking into account any standards and regulations which may be formulated by the competent international organizations.

2. All States shall co-operate with the competent international organizations in taking measures for the prevention of pollution of the seas or air space above, resulting from any activities with radio-active materials or other harmful agents.

Article 26

1. All States shall be entitled to lay submarine cables and pipelines on the bed of the high seas.

2. Subject to its right to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may not impede the laying or maintenance of such cables or pipelines.

3. When laying such cables or pipelines the State in question shall pay due regard to cables or pipelines already in position on the seabed. In particular, possibilities of repairing existing cables or pipelines shall not be prejudiced.

Article 27

Every State shall take the necessary legislative measures to provide that the breaking or injury by a ship flying its flag or by a person subject to its jurisdiction of a submarine cable beneath the high seas done wilfully or through culpable negligence, in such a manner as to be liable to interrupt or obstruct telegraphic or telephonic communications, and similarly the breaking or injury of a submarine, pipeline or high-voltage power cable shall be a punishable offense. This provision shall not apply to any break or injury caused by persons who acted merely with the legitimate object of saving their lives or their ships, after having taken all necessary precautions to avoid such break or injury.

Article 28

Every State shall take the necessary legislative measures to provide that, if persons subject to its jurisdiction who are the owners of a cable or pipeline beneath the high seas, in laying or repairing that cable or pipeline, cause a break in or injury to another cable or pipeline, they shall bear the cost of the repairs.

Article 29

Every State shall take the necessary legislative measures to ensure that the owners of ships who can prove that they have sacrificed an anchor, a net or any other fishing gear, in order to avoid injuring a submarine cable or pipeline, shall be indemnified by the owner of the cable or pipeline, provided that the owner of the ship has taken all reasonable precautionary measures beforehand.

Article 30

The provisions of this Convention shall not affect conventions or other international agreements already in force, as between States parties to them.

Article 31

This Convention shall, until October 1958, be open for signature by all States Members of the United Nations or of any of the specialized agencies, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention.

Article 32

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 33

This Convention shall be open for accession by any States belonging to any of the categories mentioned in article 31. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 34

1. This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.
2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 35

1. After the expiration of a period of five years from the date on which this Convention shall enter into force, a request for the revision of this Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

Article 36

The Secretary-General of the United Nations shall inform all States Members of the United Nations and the other States referred to in article 31:

(*a*) Of signatures to this Convention and of the deposit of instruments of ratification or accession, in accordance with articles 31, 32 and 33;

(*b*) Of the date on which this Convention will come into force, in accordance with article 34;

(*c*) Of requests for revision in accordance with article 35.

Article 37

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 31.

IN WITNESS WHEREOF the undersigned Plenipotentiaries being duly authorized thereto by their respective Governments, have signed this Convention.

DONE at Geneva, this twenty-ninth day of April one thousand nine hundred and fifty-eight.

c. Convention on Fishing and Conservation of the Living Resources of the High Seas (with reservation)[1]

Done at Geneva April 29, 1958; Ratification advised by the Senate of the United States of America, subject to an understanding, May 26, 1960; Ratified by the President of the United States of America, subject to the said understanding, March 24, 1961; Ratification of the United States of America deposited with the Secretary-General of the United Nations, with the said understanding, April 12, 1961; Proclaimed by the President of the United States of America March 31, 1966; Entered into force March 20, 1966

The States Parties to this Convention,

Considering that the development of modern techniques for the exploitation of the living resources of the sea, increasing man's ability to meet the need of the world's expanding population for food, has exposed some of these resources to the danger of being overexploited.

Considering also that the nature of the problems involved in the conservation of the living resources of the high seas is such that there is a clear necessity that they be solved, whenever possible on the basis of international co-operation through the concerted action of all the States concerned.

Have agreed as follows:

Article 1

1. All States have the right for their nationals to engage in fishing on the high seas, subject (*a*) to their treaty obligation, (*b*) to the interests and the rights of coastal States as provided for in this Convention, and (*c*) to the provisions contained in the following articles concerning conservation of the living resources of the high seas.

2. All States have the duty to adopt, or to co-operate with other States in adopting, such measures for their respective nationals as may be necessary for the conservation of the living resources of the high seas.

Article 2

As employed in this Convention, the expression "conservation of the living resources of the high seas" means the aggregate of the measures rendering possible the optimum sustainable yield from those resources so as to secure a maximum supply of food and other marine products. Conservation programmes should be formulated with a view to securing the first place a supply of food for human consumption.

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[1] 17 UST 138; TIAS 5969; 559 UNTS 285. The text of the convention printed herein constituted Annex III of the Final Act of the United Nations Conference of the Law of the Sea which was certified by the Legal Counsel, for the Secretary-General of the United Nations. For text of Reservation, see page 1029 of text.

Article 3

A State whose nationals are engaged in fishing any stock or stocks of fish or other living marine resources in any area of the high seas where the nationals of other States are not thus engaged shall adopt, for its own nationals, measures in that area when necessary for the purpose of the conservation of the living resources affected.

Article 4

1. If the nationals of two or more States are engaged in fishing the same stock or stocks of fish or other living marine resources in any area or areas of the high seas, these States shall, at the request of any of them, enter into negotiations with a view to prescribing by agreement for their nationals the necessary measures for the conservation of the living resources affected.

2. If the States concerned do not reach agreement within twelve months, any of the parties may initiate the procedure contemplated by article 9.

Article 5

1. If, subseqent to the adoption of the measures referred to in articles 3 and 4, nationals of other States engage in fishing the same stock or stocks of fish or other living marine resources in any area or areas of the high seas, the other States shall apply the measures, which shall not be discriminatory in form or in fact, to their own nationals not later than seven months after the date on which the measures shall have been notified to the Director-General of the Food and Agriculture Organization of the United Nations. The Director-General shall notify such measures to any State which so requests and, in any case, to any State specified by the State initiating the measure.

2. If these other States do not accept the measures so adopted and if no agreement can be reached within twelve months, any of the interested parties may initiate the procedure contemplated by article 9. Subject to paragraph 2 of article 10, the measures adopted shall remain obligatory pending the decision of the special commission.

Article 6

1. A coastal State has a special interest in the maintenance of the productivity of the living resources in any area of the high seas adjacent to its territorial sea.

2. A coastal State is entitled to take part on an equal footing in any system of research and regulation for purposes of conservation of the living resources of the high seas in that area, even though its nationals do not carry on fishing there.

3. A State whose nationals are engaged in fishing in any area of the high seas adjacent to the territorial sea of a coastal State shall, at the request of that coastal State, enter in negotiations with a view to prescribing by agreement the measures necessary for the conservation of the living resources of the high seas in that area.

4. A State whose nationals are engaged in fishing in any area of the high seas adjacent to the territorial sea of a coastal State shall not enforce conservation measures in that area which are opposed to those which have been adopted by the coastal State, but may enter into negotiations with the coastal State with a view to prescribing by agreement the measures necessary for the conservation of the living resources of the high seas in that area.

5. If the States concerned do not reach agreement with respect to conservation measures within twelve months, any of the parties may initiate the procedure contemplated by article 9.

Article 7

1. Having regard to the provisions of paragraph 1 of article 6, any coastal State may, with a view to the maintenance of the productivity of the living resources of the sea, adopt unilateral measures of conservation appropriate to any stock of fish or other marine resources in any area of the high seas adjacent to its territorial sea, provided that negotiations to that effect with the other States concerned have not led to an agreement within six months.

2. The measures which the coastal State adopts under the previous paragraph shall be valid as to other States only if the following requirements are fulfilled:

(*a*) That there is a need for urgent application of conservation measures in the light of the existing knowledge of the fishery;

(*b*) That the measures adopted are based on appropriate scientific findings; and

(*c*) That such measures do not discriminate in form or in fact against foreign fishermen.

3. These measures shall remain in force pending the settlement, in accordance with the relevant provisions of this Convention, of any disagreement as to their validity.

4. If the measures are not accepted by the other States concerned, any of the parties may initiate the procedure contemplated by article 9. Subject to paragraph 2 of article 10, the measures adopted shall remain obligatory pending the decision of the special commission.

5. The principles of geographical demarcation as defined in article 12 of the Convention on the Territorial Sea and the Contiguous Zone[2] shall be adopted when coasts of different States are involved.

Article 8

1. Any State which, even if its nationals are not engaged in fishing in an area of the high seas not adjacent to its coast, has a special interest in the conservation of the living resources of the high seas in that area, may request the State or States whose nationals are engaged in fishing there to take the necessary measures of conservation under articles 3 and 4 respectively, at the same time mentioning the scientific reasons which in its opinion make such measures necessary, and indicating its special interest.

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[2] See page 1007 of text.

2. If no agreement is reached within twelve months, such State may initiate the procedure contemplated by article 9.

Article 9

1. Any dispute which may arise between States under articles 4, 5, 6, 7, and 8 shall, at the request of any of the parties, be submitted for settlement to a special commission of five members, unless the parties agree to seek a solution by another method of peaceful settlements, as provided for in Article 33 of the Charter of the United Nations.[3]

2. The members of the commission, one of whom shall be designated as chairman, shall be named by agreement between the States in dispute within three months of the request for settlement in accordance with the provisions of this article. Failing agreement they shall, upon the request of any State party, be named by the Secretary-General of the United Nations, within a further three-month period, in consultation with the States in dispute and with the President of the International Court of Justice and the Director-General of the Food and Agriculture Organization of the United Nations, from amongst well-qualified persons being nationals of the States not involved in the dispute and specializing in legal, administrative or scientific questions relating to fisheries, depending upon the nature of the dispute to be settled. Any vacancy arising after the original appointment shall be filled in the same manner as provided for the initial selection.

3. Any State party to proceedings under these articles shall have the right to name one of its nationals to the special commission, with the right to participate fully in the proceedings on the same footing as a member of the commission but without the right to vote or to take part in the writing of the commission's decision.

4. The commission shall determine its own procedure, assuring each party to the proceedings a full opportunity to be heard and to present its case. It shall also determine how the costs and expenses shall be divided between the parties to the dispute, failing agreement by the parties on this matter.

5. The special commission shall render its decision within a period of five months from the time it is appointed unless it decides, in case of necessity, to extend the time limit for a period not exceeding three months.

6. The special commission shall, in reaching its decisions, adhere to these articles and to any special agreements between the disputing parties regarding settlement of the dispute.

7. Decisions of the commission shall be by majority vote.

Article 10

1. The special commission shall, in disputes arising under article 7, apply the criteria listed in paragraph 2 of that article. In disputes under articles 4, 5, 6 and 8 the commission shall apply the following criteria, according to the issues involved in the dispute:

(a) Common to the determination of disputes arising under articles 4, 5 and 6 are the requirements:

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[3] See page 715 of text.

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(i) That scientific findings demonstrate the necessity of conservation measures;

(ii) That the specific measures are based on scientific findings and are practicable; and

(iii) That the measures do not discriminate, in form or in fact, against fishermen of other States.

(b) Applicable to the determination of disputes arising under article 8 is the requirement that scientific findings demonstrate the necessity for conservation measures, or that the conservation program is adequate, as the case may be.

2. The special commission may decide that pending its award the measures in dispute shall not be applied, provided that, in the case of disputes under article 7, the measures shall only be suspended when it is apparent to the commission on the basis of *prima facie* evidence that the need for the urgent application of such measures does not exist.

Article 11

The decisions of the special commission shall be binding on the States concerned and the provisions of paragraph 2 of Article 94 of the Charter of the United Nations shall be applicable to those decisions. If the decisions are accompanied by any recommendations, they shall receive the greatest possible consideration.

Article 12

1. If the factual basis of the award of the special commission is altered by substantial changes in the conditions of the stock or stocks of fish or other living marine resources or in methods of fishing, any of the States concerned may request the other States to enter into negotiations with a view to prescribing by agreement the necessary modifications in the measures of conservation.

2. If no agreement is reached within a reasonable period of time, any of the States concerned may again resort to the procedure contemplated by article 9 provided that at least two years have elapsed from the original award.

Article 13

1. The regulation of fisheries conducted by means of equipment embedded in the floor of the sea in areas of the high seas adjacent to the territorial sea of a State may be undertaken by that State where such fisheries have long been maintained and conducted by its nationals, provided that non-nationals are permitted to participate in such activities on an equal footing with nationals except in areas where such fisheries have by long usage been exclusively enjoyed by such nationals. Such regulations will not, however, affect the general status of the areas as high seas.

2. In this article, the expression "fisheries conducted by means of equipment embedded in the floor of the sea" means those fisheries using gear with supporting members embedded in the sea floor, constructed on a site and left there to operate permanently or, if removed, restored each season on the same site.

Article 14

In articles 1, 3, 4, 5, 6 and 8, the term "nationals" means fishing boats or craft of any size having the nationality of the State concerned, according to the law of that State, irrespective of the nationality of the members of their crews.

Article 15

The Convention shall, until 31 October 1958, be open for signature by all States Members of the United Nations or any of the specialized agencies, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention.

Article 16

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 17

This Convention shall be open for accession by any States belonging to any of the categories mentioned in article 15. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 18

1. This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.
2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 19

1. At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 6, 7, 9, 10, 11 and 12.
2. Any Contracting State making a reservation in accordance with the preceding paragraph may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

Article 20

1. After the expiration of a period of five years from the date on which this Convention shall enter into force, a request for the revision of this Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

Article 21

The Secretary-General of the United Nations shall inform all States Members of the United Nations and the other States referred to in article 15:

(*a*) Of signatures to this Convention and of the deposit of instruments of ratification or accession, in accordance with articles 15, 16 and 17;

(*b*) Of the date on which this Convention will come into force, in accordance with article 18;

(*c*) Of requests for revision in accordance with article 20;

(*d*) Of reservations to this Convention, in accordance with article 19.

Article 22

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 15.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

DONE at Geneva, this twenty-ninth day of April one thousand nine hundred and fifty-eight.

RESERVATION AS STATED IN THE PROCLAMATION

Whereas the Senate of the United States of America by their resolution of May 26, 1960, two-thirds of the Senators present concurring therein, did advise and consent to the ratification of the said Convention subject to the understanding "that such ratification shall not be construed to impair the applicability of the principle of 'absentention', as defined in paragraph A.1 of the documents of record in the proceedings of the Conference above referred to, identified as A/CONF.13/C.3/L69, 8 April 1958";

Whereas paragraph A.1 of document A/CONF.13/C.3/L69, 8 April 1958, of the United Nations Conferences on the Law of the Sea reads as follows:

"Where the nationals of a coastal State, alone or with the nationals of one or more other States, are (a) fishing a stock of fish in an area of the high seas adjacent to the territorial sea of the coastal State with such intensity that an increase in fishing effort will not result in a substantial increase in the yield which can be maintained year after year, and (b) where the maintenance of the current yield, or when possible, the further development of it is dependent upon a conservation programme carried out by those States, involving research and limitations upon the size or quantity of the fish which may be caught, then (c) States whose nationals are not fishing the stock regularly or which have not theretofore done so within a reasonable period of time, shall abstain from fishing such stock, provided, however, that this shall not apply to any coastal State with respect to fishing any stock in waters adjacent to its territorial sea."

d. Convention on the Continental Shelf [1]

Done at Geneva April 29, 1958; Ratification advised by the Senate of the United States of America May 26, 1960; Ratified by the President of the United States of America March 24, 1961; Ratification of the United States of America deposited with the Secretary-General of the United Nations April 12, 1961; Proclaimed by the President of the United States of America May 25, 1964; Entered into force June 10, 1964

The States Parties to this Convention,

Have agreed as follows:

Article 1

For the purpose of these articles, the term "continental shelf" is used as referring (*a*) to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas; (*b*) to the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

Article 2

1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.

2. The rights referred to in paragraph 1 of this article are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities, or make a claim to the continental shelf, without the express consent of the coastal State.

3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.

4. The natural resources referred to in these articles consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.

Article 3

The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters as high seas, or that of the airspace above those waters.

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[1] 15 UST 471; TIAS 5578; 499 UNTS 311. The text of the convention printed herein constituted Annex IV to the Final Act of the United Nations Conference on the Law of the Sea, which was certified by the Legal Counsel, for the Secretary-General of the United Nations.

Article 4

Subject to its right to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may not impede the laying or maintenance of submarine cables or pipe lines on the continental shelf.

Article 5

1. The exploration of the continental shelf and the exploitation of its natural resources must not result in any unjustifiable interference with navigation, fishing or the conservation of the living resources of the sea, nor result in any interference with fundamental oceanographic or other scientific research carried out with the intention of open publication.

2. Subject to the provisions of paragraphs 1 and 6 of this article, the coastal State is entitled to construct and maintain or operate on the continental shelf installations and other devices necessary for its exploration and the exploitation of its natural resources, and to establish safety zones around such installations and devices and to take in those zones measures necessary for their protection.

3. The safety zones referred to in paragraph 2 of this article may extend to a distance of 500 metres around the installations and other devices which have been erected, measured from each point of their outer edge. Ships of all nationalities must respect these safety zones.

4. Such installations and devices, though under the jurisdiction of the coastal State, do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea of the coastal State.

5. Due notice must be given of the construction of any such installation, and permanent means for giving warning of their presence must be maintained. Any installations which are abandoned or disused must be entirely removed.

6. Neither the installations or devices, nor the safety zones around them, may be established where interference may be caused to the use of recognized sea lanes essential to international navigation.

7. The coastal State is obliged to undertake, in the safety zones, all appropriate measures for the protection of the living resources of the sea from harmful agents.

8. The consent of the coastal State shall be obtained in respect of any research concerning the continental shelf and undertaken there. Nevertheless the coastal State shall not normally withhold its consent if the request is submitted by a qualified institution with a view to purely scientific research into the physical or biological characteristics of the continental shelf, subject to the proviso that the coastal State shall have the right, if it so desires, to participate or to be represented in the research, and that in any event the results shall be published.

Article 6

1. Where the same continental shelf is adjacent to the territories of two or more States whose coasts are opposite each other, the boundary of the continental shelf appertaining to such States shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary is the median line, every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

2. Where the same continental shelf is adjacent to the territories of two adjacent States, the boundary of the continental shelf shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary shall be determined by application of the principle of equidistance from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

3. In delimiting the boundaries of the continental shelf, any lines which are drawn in accordance with the principles set out in paragraphs 1 and 2 of this article should be defined with reference to charts and geographical features as they exist at a particular date, and reference should be made to fixed permanent identifiable points on the land.

Article 7

The provisions of these articles shall not prejudice the right of the coastal State to exploit the subsoil by means of tunnelling irrespective of the depth of water above the topsoil.

Article 8

The Convention shall until 31 October 1958, be open for signature by all States Members of the United Nations or of any of the specialized agencies, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention.

Article 9

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 10

This Convention shall be open for accession by any States belonging to any of the categories mentioned in article 8. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 11

1. This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratifi-

cation or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 12

1. At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1 to 3 inclusive.

2. Any Contracting State making a reservation in accordance with the preceding paragraph may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

Article 13

1. After the expiration of a period of five years from the date on which this Convention shall enter into force, a request for the revision of this Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

Article 14

The Secretary-General of the United Nations shall inform all States Members of the United Nations and the other States referred to in article 8:

(*a*) Of signatures to this Convention and of the deposit of instruments of ratification or accession with articles 8, 9 and 10;

(*b*) Of the date on which this Convention will come into force, in accordance with article 11;

(*c*) Of requests for revision in accordance with article 13; and

(*d*) Of reservations to this Convention, in accordance with article 12.

Article 15

The original of this Convention of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 8.

In witness whereof the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

Done at Geneva, this twenty-ninth day of April one thousand nine hundred and fifty-eight.

e. Treaty Between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon [1]

Signed at Ottawa January 28, 1985; ratification advised by the Senate of the United States January 28, 1985; ratified by the United States March 14, 1985; ratified by Canada March 13, 1985; ratifications exchanged March 18, 1985; proclaimed by the President May 14, 1985; entered into force March 18, 1985

The Government of the United States of America and the Government of Canada,

Considering the interests of both Parties in the conservation and rational management of Pacific salmon stocks and in the promotion of optimum production of such stocks;

Recognizing that States in whose waters salmon stocks originate have the primary interest in and responsibility for such stocks;

Recognizing that salmon originating in the waters of each Party are intercepted in substantial numbers by the nationals and vessels of the other Party, and that the management of stocks subject to interception is a matter of common concern;

Desiring to cooperate in the management, research and enhancement of Pacific salmon stocks;

Have agreed as follows:

ARTICLE I

DEFINITIONS

As used in this Treaty,

1. "enhancement" means man-made improvements to natural habitats or application of artificial fish culture technology that will lead to the increase of salmon stocks;
2. "fishery" means the activity of harvesting or seeking to harvest salmon;
3. "fishery regimes" means the fishing limitations and arrangements adopted by the Parties pursuant to Article IV, paragraph 6;
4. "interception" means the harvesting of salmon originating in the waters of one Party by a fishery of the other Party;
5. "overfishing" means fishing patterns which result in escapements significantly less than those required to produce maximum sustainable yields;
6. "stocks subject to this Treaty" means Pacific salmon stocks which originate in the waters of one Party and
   (a) are subject to interception by the other Party;
   (b) affect the management of stocks of the other Party; or

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[1] Treaty Doc. 99-2, 99th Congress, 1st Session.

(c) affect biologically the stocks of the other Party; and

7. "transboundary river" means a river that rises in Canada and flows to the sea through the United States.

ARTICLE II

COMMISSION AND PANELS

1. The Parties shall establish a Pacific Salmon Commission, hereinafter referred to as "the Commission", to be composed of two national sections, a Canadian Section and a United States Section.

2. The Commission shall have legal personality and shall enjoy in its relations with other organizations and in the territories of the Parties such legal capacity as may be necessary to perform its functions and achieve its ends. The immunities and privileges which the Commission and its officers shall enjoy in the territory of a Party shall be subject to agreement between the Commission and the Party concerned.

3. The Commission shall consist of not more than eight Commissioners, of whom not more than four shall be appointed by each Party. Each Party may also appoint not more than four alternate Commissioners, to serve in the absence of any Commissioner appointed by that Party.

4. The Commissioners and alternate Commissioners shall hold office at the pleasure of the Party by which they were appointed.

5. At the first meeting of the Commission one section shall select from its members a Commission Chairman, and the other section shall select from its members a Vice-Chairman, each of whom shall hold office for the calendar year in which the Treaty enters into force and for such portion of the subsequent year as the Commission may determine. Thereafter the Chairman and Vice-Chairman shall hold office for a term of twelve months and shall be selected by their respective sections. The section which selects the first Chairman shall be determined by lot and thereafter the offices of Chairman and Vice-Chairman shall alternate between the sections. If either office becomes vacant before the end of a term, the appropriate section shall select a replacement for the remainder of the term.

6. Each section shall have one vote in the Commission. A decision or recommendation of the Commission shall be made only with the approval of both sections.

7. Subject to the approval of the Parties, the Commission shall make such by-laws and procedural rules, for itself, for the Panels established pursuant to paragraph 18, and for the committees established pursuant to paragraph 17, as may be necessary for the exercise of their functions and the conduct of their meetings.

8. The Commission may make recommendations to or advise the Parties on any matters relating to the Treaty.

9. Unless otherwise agreed by the Parties, the seat of the Commission shall be at New Westminster, British Columbia.

10. The Commission shall hold an annual meeting and may hold other meetings at the request of the Chairman or of either Party. The Chairman shall notify the Commissioners of the time and place of meetings. Meetings may be held at the seat of the Commis-

sion or at such other place as may be determined in accordance with the by-laws and procedural rules of the Commission.

11. Each Party shall pay the expenses of its own section.

12. The Commission shall prepare an annual budget of joint expenses and submit it to the Parties for approval. The Parties shall bear the costs of the budget in equal shares unless otherwise agreed, and shall pay their shares as the by-laws may specify after the budget has been approved by both Parties.

13. The Commission shall authorize the disbursement of funds contributed by the Parties pursuant to paragraph 12, and may enter into contracts and acquire property necessary for the performance of its functions.

14. The Commission shall submit to the Parties an annual report on its activities and an annual financial statement.

15. The Commission shall appoint an Executive Secretary, who, subject to the supervision of the Commission, shall be responsible for the general administration of the Commission.

16. The Commission may engage staff or authorize the Executive Secretary to do so. The Executive Secretary shall have full authority over the staff subject to the direction of the Commission. If the office of the Executive Secretary is vacant, the Commission shall determine who shall exercise that authority.

17. The Commission shall establish a Committee on Research and Statistics and a Committee on Finance and Administration. The Commission may eliminate or establish committees as appropriate.

18. The Commission shall establish Panels as specified in Annex I. The Commission may recommend to the Parties the elimination or establishment of Panels as appropriate.

19. The Panels shall provide information and make recommendations to the Commission with respect to the functions of the Commission and carry out such other functions as the Treaty may specify or as the Commission may direct.

20. In cases where fisheries intercept stocks for which more than one Panel is responsible, the appropriate Panels shall meet jointly to carry out the functions specified in paragraph 19. If the Panels cannot agree, each may make an independent report to the Commission.

21. Each Panel shall consist of not more than 6 members from each Party. Each Party may designate alternate Panel members to serve in the absence of any Panel member appointed by that Party.

22. Except as otherwise provided in the Treaty, paragraphs 4, 5, 6, 10 and 11 apply *mutatis mutandis*, to each Panel.

ARTICLE III

PRINCIPLES

1. With respect to stocks subject to this Treaty, each Party shall conduct its fisheries and its salmon enhancement programs so as to:

(a) prevent overfishing and provide for optimum production; and

(b) provide each Party to receive benefits equivalent to the production of salmon originating in its waters.

2. In fulfilling their obligations pursuant to paragraph 1, the Parties shall cooperate in management, research and enhancement.

3. In fulfilling their obligations pursuant to paragraph 1, the Parties shall take into account:

(a) the desirability in most cases of reducing interceptions;

(b) the desirability in most cases of avoiding undue disruption of existing fisheries; and

(c) annual variations in abundances of the stocks.

ARTICLE IV

CONDUCT OF FISHERIES

In order to facilitate the implementation of Articles III, VI and VII:

1. Each Party shall submit an annual report on its fishing activities in the previous year to the other Party and to the Commission. The Commission shall forward the reports to the appropriate Panels.

2. The Panels shall consider the reports submitted pursuant to paragraph 1 and shall provide their views to the Commission. The Commission shall review the reports of the Panels and shall provide its views to the Parties.

3. Each year the State of origin shall submit preliminary information for the ensuing year to the other Party and to the Commission, including:

(a) the estimated size of the run;

(b) the interrelationship between stocks;

(c) the spawning escapement required;

(d) the estimated total allowable catch;

(e) its intentions concerning management of fisheries in its own waters; and

(f) its domestic allocation objectives whenever appropriate.

The Commission shall forward this information to the appropriate Panels.

4. The Panels shall examine the information submitted pursuant to paragraph 3 and report their views to the Commission with respect to fishery regimes for the following year.

5. The Commission shall review the reports of the Panels and shall recommend fishery regimes to the Parties.

6. On adoption by both Parties, the fishery regimes referred to in paragraph 5 shall be attached to this Treaty as Annex IV.

7. Each Party shall establish and enforce regulations to implement the fishery regimes adopted by the Parties. Each Party, in a manner to be determined by the Commission, shall notify the Commission and the other Party of these regulations and shall promptly communicate to the Commission and to the other Party any inseason modifications.

ARTICLE V

SALMON ENHANCEMENT PROGRAMS

1. Salmon enhancement programs that may be established by the Parties shall be conducted subject to the provisions of Article III.

2. Each year each Party shall provide to the other Party and to the Commission information pertaining, *inter alia*, to:

(a) operations of the plans for existing projects;

(b) plans for new projects; and

(c) its views concerning the other Party's salmon enhancement projects.

The Commission shall forward this information to the appropriate Panels.

3. The panels shall examine the information and report their views to the Commission in light of the obligations set forth in Article III.

4. The Commission shall review the reports of the Panels and may make recommendations to the Parties.

ARTICLE VI

FRASER RIVER

1. This Article applies to Fraser River sockeye and pink salmon harvested in the area specified in Annex II.

2. Notwithstanding the provisions of Article IV, paragraph 7, on adoption by the Parties of the fishery regime for the stocks covered by this Article, the Fraser River panel shall propose regulations to the Commission for the harvest of salmon referred to in paragraph 1.

3. The Fraser River Panel shall review with other appropriate Panels the fishery regimes and the information provided pursuant to Article IV, paragraph 3, with respect to salmon other than Fraser River sockeye and pink salmon before proposing regulations pursuant to paragraph 2. The Fraser River Panel and the Commission shall ensure that regulatory proposals and recommendations, to the extent practicable, meet the requirements of the Parties with respect to the management of stocks other than Fraser River sockeye and pink salmon.

4. In implementing this Article, the Fraser River Panel and the Commission shall take into account and seek consistency with existing aboriginal rights, rights established in existing Indian treaties and domestic allocation objectives.

5. On the basis of the proposals made by the Panel, the Commission shall recommend regulations to the Parties for approval. The Parties shall review the recommendations for, *inter alia*, consistency with domestic legal obligations. The regulations shall become effective upon approval by the Party in whose waters such regulations are applicable.

6. During the fishing season, the Fraser River Panel may make orders for the adjustment of fishing times and areas stipulated in the annual regulations in response to variations in anticipated conditions. The Parties shall review the orders for consistency with domestic legal obligations. The Parties shall give effect to such orders in accordance with their respective laws and procedures.

7. The Parties shall not regulate their fisheries in areas outside the area specified in Annex II in a manner that would prevent achievement of the objectives of the fishery regime for the salmon referred to in paragraph 1.

ARTICLE VII

TRANSBOUNDARY RIVERS

1. This Article applies to salmon originating in transboundary rivers.

2. Notwithstanding Article IV, paragraph 3(c), whenever salmon originate in the Canadian portion of a transboundary river, the appropriate Panel shall provide its views to the Commission on the spawning escapement to be provided for all the salmon stocks of the river if either section of the Panel so requests.

3. On the basis of the views provided by the Panel pursuant to paragraph 2, the Commission shall recommend spawning escapements to the Parties.

4. Whenever salmon originate in the Canadian portions of transboundary rivers, or would originate there as a result of enhancement projects, salmon enhancement projects on the transboundary rivers shall be undertaken co-operatively, provided, however, that either Party, with the consent of the Commission, may separately undertake salmon enhancement projects on the transboundary rivers.

ARTICLE VIII

YUKON RIVER

1. Notwithstanding Articles III, paragraph 1(b), and VII, arrangements for consultation, recommendation of escapement targets and approval of enhancement activities on the Yukon River require further development to take into account the unique characteristics of that River.

2. The Parties consider it important to ensure effective conservation of stocks originating in the Yukon River and to explore the development of co-operative research and identification of potential enhancement opportunities.

3. The Parties shall initiate in 1985, and conclude, as soon as possible, negotiations to, *inter alia*,

(a) account for United States harvests of salmon originating in the Canadian section of the River;

(b) develop co-operative management procedures taking into account United States management programs for stocks originating in the United States section of the River;

(c) consider co-operative research programs, enhancement opportunities, and exchanges of biological data; and

(d) develop an organizational structure to deal with Yukon River issues.

4. Prior to the entry into force of this Treaty, the Parties shall agree upon:

(a) the range within which the accounting of United States interceptions referred to in paragraph 3(a) shall be established;

(b) arrangements for exchange of available data on the stocks; and

(c) proposals for research.

Article IX

STEELHEAD

In fulfilling their functions, the Panels and Commission shall take into account the conservation of steelhead.

Article X

RESEARCH

1. The Parties shall conduct research to investigate the migratory and exploitation patterns, the productivity and the status of stocks of common concern and the extent of interceptions.

2. The Commission may make recommendations to the Parties regarding the conduct and coordination of research.

3. Subject to normal requirements, each Party shall allow nationals, equipment and vessels of the other Party conducting research approved by the Commission to have access to its waters for the purpose of carrying out such research.

Article XI

DOMESTIC ALLOCATION

1. This Treaty shall not be interpreted or applied so as to affect or modify existing aboriginal rights or rights established in existing Indian treaties and other existing federal laws.

2. This Article shall not be interpreted or applied so as to affect or modify any rights or obligations of the Parties pursuant to other Articles and Annexes to this Treaty.

Article XII

TECHNICAL DISPUTE SETTLEMENT

1. Either Party may submit to the Chairman of the Commission, for referral to a Technical Dispute Settlement Board, any dispute concerning estimates of the extent of salmon interceptions and data related to questions of overfishing. The Commission may submit other technical matters to the Chairman for referral to a Board. The Board shall be established and shall function in accordance with the provisions of Annex III. The Board shall make findings of fact on the disputes and the other technical matters referred to it.

2. The findings of the Board shall be final and without appeal, except as provided in paragraph 3, and shall be accepted by the Commission as the best scientific information available.

3. Either Party may, by application in writing to the Chairman of the Commission, request reconsideration of a finding of a Board, provided that such request is based on information not previously considered by the Board and not previously known to or reasonably discoverable by the Party requesting such reconsideration. The Chairman shall, if possible, refer the request to the Board which made the finding. Otherwise, the Chairman shall refer the request to a new Board constituted in accordance with the provisions of Annex III.

ARTICLE XIII

ANNEXES

1. All references to this Treaty shall be understood to include the Annexes.

2. The Commission, whenever appropriate, shall review the Annexes and may make recommendations to the Parties for their amendment.

3. The Annexes may be amended by the Parties through an Exchange of Notes between the Government of Canada and the Government of the United States of America.

4. The Commission shall publish the texts of the Annexes whenever amended.

ARTICLE XIV

IMPLEMENTATION

Each Party shall:

(a) enact and enforce such legislation as may be necessary to implement this Treaty;

(b) require reports from its nationals and vessels of catch, effort and related data for all stocks subject to this Treaty and make such data available to the Commission; and

(c) exchange fisheries statistics and any other relevant information on a current and regular basis in order to facilitate the implementation of this Treaty.

ARTICLE XV

ENTRY INTO FORCE AND TERMINATION OF TREATY

1. This Treaty is subject to ratification. It shall enter into force upon the exchange of instruments of ratification at [at a place to be determined].

2. At the end of the third year after entry into force and at any time thereafter, either Party may give notice of its intention to terminate this Treaty. The Treaty shall terminate one year after notification.

Upon the entry into force of this Treaty, the Convention between Canada and the United States of America for the Protection, Preservation and Extension of the Sockeye Salmon Fishery in the Fraser River System, as amended, signed May 26, 1930, shall be terminated. However, the International Pacific Salmon Fisheries Commission shall continue to function insofar as is necessary to implement Annex IV Chapter 4, paragraph (1)(c). Following the termination of the Convention, the transfer of responsibilities from the International Pacific Salmon Fisheries Commission to the Commission, the Fraser River Panel and the Government of Canada shall be as agreed by the Parties.

ANNEX I

PANELS

The following panels shall be established pursuant to Article II, paragraph 18:

(a) a Southern Panel for salmon originating in rivers with mouths situated south of Cape Caution, except as specified in sub-paragraph (b);

(b) a Fraser River Panel for Fraser River sockeye and pink salmon harvested in the area specified in Annex II; and

(c) a Northern Panel for salmon originating in rivers with mouths situated between Cape Caution and Cape Suckling.

ANNEX II

FRASER PANEL AREA

The area comprises the waters described in Article I of the Convention between Canada and the United States of America for Protection, Preservation and Extension of the Sockeye Salmon Fishery in the Fraser River System, as amended, signed May 26, 1930, as follows:

1. The territorial waters and the high seas westward from the western coast of Canada and the United States of America and from a direct line drawn from Bonilla Point, Vancouver Island, to the lighthouse on Tatoosh Island, Washington—which line marks the entrance to Juan de Fuca Strait—and embraced between 48 and 49 degrees north latitude, excepting therefrom, however, all the waters of Barkley Sound, eastward of a straight line drawn from Amphitrite Point to Cape Beale and all the waters of Nitinat Lake and the entrance thereto.

2. The waters included within the following boundaries:

Beginning at Bonila Point, Vancouver Island, thence along the aforesaid direct line drawn from Bonilla Point to Tatoosh Lighthouse, Washington, described in paragraph numbered 1 of this Article thence to the nearest point of Cape Flattery, thence following the southerly shore of Juan de Fuca Strait to Point Wilson, on Quimper Peninsula, thence in a straight line to Point Partridge on Whidbey Island thence following the western shore of the said Whidbey Island, to the entrance to Deception Pass, thence across said entrance to the southern side of Reservation Bay, on Fidalgo Island, thence following the western and northern shore line of the said Fidalgo Island to Swinomish Slough, crossing the said Swinomish Slough, in line with the track of the Great Northern Railway, thence northerly following the shore line of the mainland to Atkinson Point at the northerly entrance to Burrard Inlet, British Columbia, thence in a straight line to the southern end of Bowen Island, thence westerly following the southern shore of Bowen Island to Cape Roger Curtis, thence in a straight line to Gower Point, thence westerly following the shore line to Welcome Point on Sechelt Peninsula, thence in a straight line to Point Young on Lasqueti Island, thence in a straight line to Dorcas Point on Vancouver Island, thence following the eastern and southern shores of the said Vancouver Island, to the starting point at Bonilla Point, as shown on the British Admiralty Chart Number 579, and on the United States Coast and Geodetic Survey Chart Number 6300, as corrected to March 14, 1930, copies of which are annexed to the 1930 Convention and made a part thereof.

3. The Fraser River and the streams and lakes tributary thereto.

ANNEX III

TECHNICAL DISPUTE SETTLEMENT BOARD

1. Each Technical Dispute Settlement Board shall be composed of three members. Within 10 days of receiving a request under Article XII to refer a matter to a Board, the Chairman of the Commission shall notify the Parties. Within 20 days of this notification, each Party shall designate one member and the Parties shall jointly designate a third member, who shall be Chairman of the Board.

2. The Board shall determine its rules of procedure, but the Commission or the Parties may specify the date by which the Board shall report its findings. The Board shall provide an opportunity for each Party to present evidence and arguments, both in writing and, if requested by either Party, in oral hearing. The Board shall report its findings to the Commission, along with a statement of its reasons.

3. Decisions of a Board, including procedural rulings and findings of fact, shall be made by majority vote and shall be final and without appeal except as provided in Article XII, paragraph 3.

4. Remuneration of the members and their expense allowances shall be determined on such basis as the Parties may agree at the time the Board is constituted. The Commission shall provide facilities for the proceedings.

ANNEX IV

Chapter 1

TRANSBOUNDARY RIVERS

1. Recognizing the desirability of accurately determining exploitation rates and spawning escapement requirements of salmon originating in the Transboundary Rivers, the Parties shall establish a Joint Transboundary Technical Committee (Committee) reporting, unless otherwise agreed, to the Northern Panel and to the Commission. The Committee, *inter alia*, shall

(a) assemble and refine available information on migratory patterns, extent of exploitation and spawning escapement requirements of the stocks;

(b) examine past and current management regimes and recommend how they may be better suited to achieving preliminary escapement goals;

(c) identify enhancement opportunities that:

(i) assist the devising of harvest management strategies to increase benefits to fishermen with a view to permitting additional salmon to return to Canadian waters;

(ii) have an impact on natural Transboundary River salmon production.

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2. The Parties shall improve procedures of coordinated or cooperative management of the fisheries on Transboundary River stocks.

3. Recognizing the objectives of each Party to have viable fisheries, the Parties agree that the following arrangements shall apply to the United States and Canadian fisheries harvesting salmon stocks originating in the Canadian portion of

(a) the Stikine River:

(i) in 1985 and in 1986 Canada shall annually harvest 35% of the total allowable catch of sockeye originating in the Canadian portions of the Stikine River or 10,000 such sockeye, whichever is greater;

(ii) in 1985 and in 1986 Canada shall annually harvest 2,000 Stikine River coho;

(iii) in the years 1985 through 1995, the Parties shall take appropriate management action to ensure that the escapement goal of 19,800 to 25,000 chinook salmon in the Canadian portion of the Stikine River is achieved by 1995;

(iv) in 1985, since the run of sockeye is anticipated to be below average, in-season run-size determination and subsequent management actions will be necessary to ensure that harvest objectives and escapements are met;

(v) in 1985 and in 1986, Canadian commercial catches of chinook, pink and chum salmon in the Canadian portions of the Stikine River may be taken as an incidental harvest in the directed fishery for sockeye and coho;

(b) the Taku River:

(i) in 1985 and in 1986 Canada shall annually harvest 15% of the total allowable catch of sockeye originating in the Canadian portion of the Taku River;

(ii) in 1985 and in 1986 Canadian harvests of chinook, pink, chum, and coho salmon may be taken as an incidental harvest in the directed fishery for sockeye;

(iii) in the years 1985 through 1995, the Parties shall take appropriate management action to ensure that the escapement goal of 25,600 to 30,000 chinook salmon in the Canadian portion of the Taku River is achieved by 1995.

4. The Parties agree that if the catch allocations set out in paragraph 3 are not attained due to management actions by either Party in any one year, compensatory adjustments shall be made in subsequent years. If a shortfall in the actual catch of a Party is caused by management actions of that Party no compensation shall be made.

5. The Parties agree that the following arrangements shall apply to United States and Canadian fisheries harvesting salmon stocks originating in Canadian portions of the Alsek River:

(a) recognizing that chinook and early run sockeye stocks originating in the Alsek River are depressed and require special protection, and in the interest of conserving and rebuilding these stocks, the necessary management actions shall continue until escapement targets are achieved;

(b) in the event that in 1985 and in 1986 the run of sockeye is below average, additional restrictions will be required to meet escapement goals.

6. The Parties agree to consider cooperative enhancement possibilities and to undertake studies as soon as possible on the feasibility of new enhancement projects on the Transboundary Rivers and adjacent areas for the purpose of increasing productivity of stocks and providing greater harvests to the fishermen of both countries.

7. Recognizing that stocks of salmon originating in Canadian sections of the Columbia River constitue a small portion of the total populations of Columbia River salmon, and that the arrangements for consultation and recommendation of escapement targets and approval of enhancement activities set out in Article VII are not appropriate to the Columbia River system as a whole, the Parties consider it important to ensure effective conservation of up-river stocks which extend into Canada and to explore the development of mutually benefical enhancement activities. Therefore, notwithstanding Article VII, paragraphs 2, 3, and 4, during 1985, the Parties shall consult with a view to developing, for the transboundary sections of the Columbia River, a more practicable arrangement of consultation and setting escapement targets than those specified in Article VII, paragraphs 2 and 3. Such arrangements will seek to, *inter alia,*

(a) ensure effective conservation of the stocks;

(b) facilitate future enhancement of the stocks on an agreed basis;

(c) avoid interference with United States management programs on the salmon stocks exisitng in the non-transboundary tributaries and the main stem of the Columbia River.

Chapter 2

NORTHERN BRITISH COLUMBIA

SOUTHEASTERN ALASKA

1. Considering that the chum salmon stocks originating in streams in the Portland Canal require rebuilding, the Parties agree in 1985 to jointly reduce interception of these stocks to the extent practicable and to undertake assessments to identify possible measures to restore and enhance these stocks. On the basis of such assessments, the Parties shall instruct the Commission to identify long-term plans to rebuild stocks.

2. With respect to sockeye salmon, the United States shall

(a) during the period 1985 through 1988, limit its purse seine fishery in District 4 in a manner that will result in a maximum four-year total catch of 480,000 sockeye salmon prior to United States statistical week 31;

(b) limit its drift gillnet fishery in Districts 1A and 1B in a manner that will result in an average annual harvest of 130,000 sockeye salmon.

3. With respect to pink salmon, Canada shall

(a) limit its net fishery in Areas 3-1, 3-2, 3-3, 3-4, and 5-11 in a manner that will result in an average annual harvest of 900,000 pink salmon;

(b) in 1985 and 1986, limit its troll fishery in Area 1 in a manner that will result in a maximum two year total catch of 1 million troll pink salmon;

(c) in 1985 and 1986, if 300,000 troll pink salmon are caught in Area 1 in either year, then close to pink salmon trolling sub-areas 101–3 north of 54° 35′ north, 101–4, 101–8, and 103 north of 54° 35′ north.

4. In 1985 and thereafter, in order to ensure that catch limits specified in paragraphs 2 and 3 are not exceeded, the Parties shall implement appropriate management measures which take into account the expected run-sizes and permit each country to harvest its own stocks.

5. In setting pink salmon fisheries regimes for 1987 and thereafter, the Parties agreed to take into account information from the 1984 and 1985 northern pink tagging program.

6. The Parties shall at the earliest possible date exchange management plans for the fisheries described herein.

7. In order to accomplish the objectives of this Chapter, neither Party shall initiate new intercepting fisheries, nor conduct or redirect fisheries in a manner that internationally increases interceptions.

8. The Parties shall establish a Joint Northern Boundary Technical Committee (Committee) reporting, unless otherwise agreed, to the Northern Panel and the Commission. The Committee, *inter alia*, shall

(a) evaluate the effectiveness of management actions;

(b) identify and review the status of stocks;

(c) present the most current information on harvest rates and pattern on these stocks, and develop a joint data base for assessments;

(d) collate available information on the productivity of stocks in order to identify escapements which produce maximum sustainable harvests and allowable harvest rates;

(e) present historical catch data, associated fishing regimes, and information on stock composition in fisheries harvesting these stocks;

(f) devise analytical methods for the development of alternative regulatory and production strategies;

(g) identify information and research needs, including future monitoring programs for stock assessments;

(h) for each season, make stock and fishery assessments and recommend to the Northern Panel conservation measures consistent with the principles of the Treaty.

Chapter 3

CHINOOK SALMON

1. Considering that escapements of many naturally spawning chinook stocks originating from the Columbia River northward to southeastern Alaska have declined in recent years and are now substantially below goals set to achieve maximum sustainable yields, and recognizing the desirability of stabilizing trends in escapements and rebuilding stocks of naturally spawning chinook salmon, the Parties shall

(a) instruct their respective management agencies to establish a chinook salmon management program designed to meet the following objectives:

(i) halt the decline in spawning escapements in depressed chinook salmon stocks;

(ii) attain by 1998 escapement goals established in order to restore production of naturally spawning chinook stocks, as represented by indicator stocks identified by the Parties, based on a rebuilding program begun in 1984.

(b) jointly initiate and develop a coordinated chinook management program.

(c) establish a Joint Chinook Technical Committee (Committee) reporting, unless otherwise agreed, to the Northern and Southern Panels and to the Commission, which *inter alia*, shall

(i) evaluate management actions for their consistency with measures set out in this Chapter and for their potential effectiveness in attaining these specified objectives;

(ii) evaluate annually the status of chinook stocks in relation to objectives set out in this Chapter and, consistent with paragraph (d)(iv) beginning in 1986, make recommendations for adjustments to the management measures set out in this Chapter;

(iii) develop procedures to evaluate progress in the rebuilding of naturally spawning chinook stocks;

(iv) recommend strategies for the effective utilization of enhanced stocks;

(v) recommend research required to implement this rebuilding program effectively;

(vi) exchange information necessary to analyze the effectiveness of alternative fishery regulatory measures to satisfy conservation objectives.

(d) ensure that

(i) in 1985 and 1986, the annual all-gear catch in northern and central British Columbia and southeast Alaska shall not exceed 526,000 chinook salmon to be divided equally between the Parties;

(ii) in 1985 and 1986, the annual troll catch off the west coast of Vancouver Island shall not exceed 360,000 chinook;

(iii) in 1985 and 1986, the total annual catch by the sport and troll fisheries in the Strait of Georgia shall not exceed 275,000 chinook;

(iv) if recommended by the Committee, in 1986 and subsequent years adjustments to the ceilings may be made in response to reductions in chinook abundance so that the indicator stocks are rebuilt by 1998; provided that reductions in ceilings for 1986 will not be made unless the Committee recommends a reduction greater than 15 percent, based on reductions in stock abundance for that year;

(v) fishing regimes are reviewed by the Committee and structured so as not to affect unduly or to concentrate disporportionately on stock in need of conservation;

(vi) if catch ceilings are exceeded in any year, the differences shall be addressed by the responsible Party in a manner that will ensure rebuilding of the affected stocks by 1998.

(e) evaluate all sources of induced fishing mortality, estimate unreported catches of chinook salmon, assess the impact and minimize the effects of these factors in 1985 and 1986. The Commission shall take into account such estimates of total chinook mortality in implementing the chinook rebuilding program.

(f) manage all salmon fisheries in Alaska, British Columbia, Washington and Oregon, so that the bulk of depressed stocks preserved by the conservation program set out herein principally accrue to the spawning escapement.

(g) establish at the conclusion of the chinook rebuilding program fishery regimes to maintain the stocks at optimum productivity and provide fair internal allocation determinations. It is recognized that the Parties are to share the benefits of coastwide rebuilding and enhancement, consistent with such internal allocation determinations and this Treaty.

(h) exchange annual management plans prior to each season.

2. The Parties agree that enhancement efforts designed to increase production of chinook salmon would benefit the rebuilding program. They agree to consider utilizing and redirecting enhancement programs to assist, if needed, in the chinook rebuilding program. They agree that each region's catches will be allowed to increase above established ceilings based on demonstrations to the Commission and assessments by it of the specific contributions of each region's new enhancement activities, provided that the rebuilding schedule is not extended beyond 1998.

Chapter 4

FRASER RIVER SOCKEYE AND PINK SALMON

1. In order to increase the effectiveness of the management of fisheries in the Fraser River Area (hereinafter the Area) and in fisheries outside the Area which harvest Fraser River sockeye and pink salmon, the Parties agree

(a) that the preliminary expectations of the total allowable catches of Fraser River sockeye and pink are:

[In millions]

	Sockeye	Pink
1985	6.6	11.0
1986	12.5	
1987	3.1	12.0
1988	3.6	
1989	7.1	14.0
1990	13.0	
1991	3.1	14.0
1992	3.6	

(b) that (i) based on these preliminary expectations, the United States shall harvest as follows:

[In millions]

	Sockeye	Pink
1985	1.78	3.6
1986	3.0	
1987	1.06	3.6
1988	1.16	

(ii) the United States catches referred to in paragraph 1(b)(i) herein shall be adjusted in proportion to any adjustments in the total allowable catches set out in paragraph 1(a) herein that are due to any agreed adjustments in pre-season or in-season expectations of run-size. When considering such adjustment, the Parties shall take into account all fisheries that harvest Fraser River sockeye and pink salmon including annual Fraser River Indian food fish harvests in excess of 400,000 sockeye. The United States catches shall not be adjusted due to any adjustments in the total allowable catch that may be caused by changes in escapement goals that form the basis for the agreed total allowable catches set out in paragraph 1(a) herein;

(iii) notwithstanding the agreed United States and Canadian catch levels for Fraser River sockeye and for coho off the west coast of Vancouver Island, as provided in paragraph 1(b)(i) herein and in Chapter 5, respectively, and subject to paragraph 1(b)(ii), in 1985 the United States catch of Fraser River sockeye shall be 1.73 million and the Canadian catch of coho off the west coast of Vancouver Island shall not exceed 1.75 million; and in 1986, the United States catch of Fraser River sockeye shall be 2.95 million and the Canadian catch of coho off the west coast of Vancouver Island shall not exceed 1.75 million;

(c) in 1985, to instruct the International Pacific Salmon Fisheries Commission to develop regulatory programs in the Area to give effect to the provisions of paragraph 1(b);

(d) to instruct the Fraser River Panel for 1986 through 1992 to develop regulations to give effect to the provisions of paragraphs 1(b) and 1(f);

(e) to instruct the Fraser River Panel that if management measures fail to achieve such sockeye and pink catches, any difference shall be compensated by adjustments to the Fraser fishery in subsequent years;

(f) in the period 1989 to 1992, the Fraser River Panel shall determine the annual United States catch level so that the total United States catch in this period shall not exceed 7 million sockeye, in the aggregate. In the years 1989 and 1991, the United States harvest shall not exceed 7.2 million pink salmon, in the aggregate. Notwithstanding the foregoing, these levels shall be reduced in proportion to any decreases in the total allowable catches set out in paragraph 1(a) herein that are due to any agreed decreases in pre-season or in-season expectations of run size. When considering such reductions, the Parties shall take into account all fisheries that harvest Fraser River sockeye and pink salmon including annual Fraser River Indian food fish harvests in excess of 400,000 sockeye. The United States catches shall not be reduced due to any decreases in the total allowable catch that may be caused by changes in escapement goals that form the basis for the agreed total allowable catches set out in paragraph 1(a) herein;

(g) to consider no sooner than 1989 adjusting the regime in accordance with the principles of Article III;

(h) to instruct the Fraser River Panel that in managing Fraser River sockeye and pink salmon, it shall take into account the management requirements of other stocks in the Area;

2. Notwithstanding the provisions of Paragraphs 1(b) and 1(f), and to ensure that Canada receives the benefits of any Canadian-funded enhancement activities undertaken following entry into force of this Treaty, any changes in the total allowable catch due to such activities shall not result in adjustment of the United States catch.

3. The Parties shall establish data-sharing principles and processes which ensure that the Parties, the International Pacific Salmon Fisheries Commission, the Commission and the Fraser River Panel are able to manage their fisheries in a timely manner consistent with this Chapter.

4. The Parties may agree to adjust the definition of the Area as necessary to simplify domestic fishery management and ensure adequate consideration of the effect on other stocks and species harvested in the Area.

5. In managing the fisheries in the Area, the Parties, the Commission, and the Fraser River Panel shall take into account fisheries inside and outside the Area that harvest Fraser River sockeye and pink salmon. The Parties, the Commission, and the Fraser River Panel shall consider the need to exercise flexibility in management of fisheries outside the Area which harvest Fraser River sockeye and pink slamon.

Chapter 5

COHO SALMON

1. Recognizing that for the past several years some coho stocks have been below levels necessary to sustain maximum harvest and that recent fishing patterns have contributed to a decline in United States catch of coho stocks of United States origin, and in order to prevent further decline in spawning escapements, adjust fishing patterns, and initiate, develop or improve management programs for coho stocks, the Parties shall

(a) establish a Joint Coho Technical Committee (Committee), reporting unless otherwise agreed to the Panels and the Commission. The membership of the Committee shall include representation from the Northern and Southern Panel Areas. The Committee, *inter alia*, shall

(i) evaluate the effectiveness of management actions;

(ii) identify and review the status of stocks;

(iii) present the most current information on harvest rates and patterns on these stocks, and develop a joint data base for assessments;

(iv) collate available information on the productivity of coho stocks in order to identify escapements which produce maximum sustainable harvests and allowable harvest rates;

(v) present historical catch data, associated fishing regimes, and information on stock composition in fisheries harvesting these stocks;

(vi) devise analytical methods for the development of alternative regulatory and production strategies;

(vii) identify information and research needs, including future monitoring programs for stock assessments;

(viii) for each season, make stock and fishery assessments and recommend to the Commission conservation measures consistent with the principles of the Treaty;

(b) unless otherwise agreed, in any area where fisheries of one Party may intercept coho stocks originating in the rivers of the other, endeavour to limit incidental coho catches by fisheries targeting on other species.

2. For coho stocks shared by Washington and southern British Columbia fisheries, each Party shall establish regimes for its ocean troll, ocean sport, and inside troll, net and sport fisheries consistent with management objectives approved by the Commission.

3. In 1985, the Parties shall adhere to presently agreed management objectives for Canadian Area 20, U.S. Areas 7 and 7A, and Juan de Fuca Strait.

4. The Parties agree

(a) that in 1985 and 1986 the total annual troll catch of coho in Canadian Management Areas 21, 23, 24, 25, 26, 27, 121, 123, 124, 125, 126, 127, and 130-1 shall not exceed 1.75 million;

(b) to avoid any alterations in coho fisheries along the west coast of Vancouver Island that would increase the proportional interception of U.S. coho stocks;

(c) to develop, in 1986 and thereafter fishery regimes for the west coast of Vancouver Island that

(i) implement conservation measures approved by the Commission and take into account any increased contributions by Canada to the fishery, and

(ii) provide for the sharing of benefits of coho production of each Party consistent with the principles of Article III.

5. If management measures result in a significant deviation from catch levels set out in paragraph 4 in any year, differences shall be compensated by adjustments to the fishery in subsequent years, provided that conservation objectives for natural coho stocks and other principles of Article III are not adversely affected.

6. Notwithstanding any other provisions of this Chapter, the Commission, for 1987 and thereafter, shall set specific harvest levels for coho salmon in the intercepting fisheries in areas described in paragraph 4.

Chapter 6

SOUTHERN BRITISH COLUMBIA—WASHINGTON CHUM FISHERIES

Considering that anticipated returns of some natural salmon stocks originating in Johnstone Strait, the Strait of Georgia, the Fraser River, Puget Sound, Juan de Fuca Strait and National Lake are expected to be weak, and therefore not likely to provide a harvestable surplus in 1985, although some enhanced stocks originating in these areas may provide harvestable surpluses and anticipating locally direct fisheries on such enhanced stocks, the Parties shall

1. no later than March 31, 1985, establish a Joint Chum Technical Committee (Committee) reporting, unless otherwise agreed, to the Southern Panel and the Commission, to, *inter alia*.
   - (a) identify and review the status of stocks of primary concern;
   - (b) present the most current information on harvest rates and patterns on these stocks, and develop a joint data base for assessments;
   - (c) collate available information on the productivity of Chum stocks in order to identify escapements which produce maximum sustainable harvests and allowable harvest rates,
   - (d) present historical catch data, associated fishing regimes, and information on stock composition in fisheries harvesting those stocks;
   - (e) develop analytical methods to permit the exploration of alternative regulatory and production strategies;
   - (f) identify information and research needs, to include future monitoring programs for stock assessments;
   - (g) develop fishery regimes for the 1985 season and thereafter.
2. no later than August 15, 1985, instruct the Committee to present a report to the Parties on the activities set out in paragraph 1 herein.

Chapter 7

GENERAL OBLIGATION

With respect to intercepting fisheries not dealt with elsewhere in this Annex, unless otherwise agreed, neither Party shall initiate new intercepting fisheries, nor conduct or redirect fisheries in a manner that intentionally increases interceptions.

IN WITNESS WHEREOF, the undersigned representatives, duly authorized by their respective Governments, have signed this Agreement.

DONE in duplicate in Ottawa, in the English and French languages, both versions being equally authentic, this 28th day of January 1985.

Memorandum of Understanding

The Governments of the United States of America and Canada have agreed to record the following in connection with the Treaty Concerning Pacific Salmon, in order to set out the intention of the Parties with respect to implementation of Article III, paragraph 1(b) of the said Treaty, Data Sharing and the Yukon River, Transboundary Rivers and the Northern Boundary—Southeastern Alaska fisheries:

A. Implementation of Article III, paragraph 1(b)

The principal goals of the Treaty are to enable both countries, through better conservation and enhancement, to increase production of salmon and to ensure that the benefits resulting from each country's efforts accrue to that country. In this regard, research on the migratory movements of stocks subject to interception must be continued for several years. Such research is required not only to determine with more precision the extent of interceptions by both sides, but also to provide an improved basis for conservation and enhancement. The resultant long-term increases in production of salmon should fully justify the short-term expenditures on research.

With respect to the obligation to provide each Party with benefits equivalent to the production of salmon originating in its rivers (contained in Article III, paragraph 1(b) of the Treaty), it is recognized that data on the extent of interceptions in some areas are imprecise and that it is therefore not possible to determine with certainty the total production of salmon from each country's rivers. It is also recognized that methods of evaluating benefits accruing within each country may differ. For these reasons, it is anticipated that it will be some time before the Commission can develop programs to implement the provisions of Article III, paragraph 1(b) in a complete and comprehensive manner. Nevertheless, in the short term, the Commission shall ensure that the annual fishery regimes and understandings regarding enhancement are developed in an equitable manner taking into account the principle outlined in Article III 1(b). In particular, the Commission's decisions should take into account changes in the benefits flowing to each of the Parties through alteration in fishing patterns, conservation actions, or as the result of changes in the abundance of the runs.

In the longer term, if it is determined that one country or the other is deriving substantially greater benefits than those provided from its rivers, it would be expected that the Parties would develop a phased program to eliminate the inequity within a specified time period, taking into account the provisions of Article III, paragraph 3. Since correction of imbalances is a national responsibility and may involve differential fishery adjustments or enhancement projects on a regional basis within either country, the Party with the advantage shall submit appropriate proposals to the Commission for consideration. Such proposals shall be discussed within the Commission and be reflected in the agreed fishery regimes and coordinated enhancement planning in ensuing years.

B. Data Sharing

Considering that development of comprehensive evaluations of management is required in order to assess the impact of such regimes on interception fisheries and on the stocks which contribute to those fisheries, for the effective implementation of the Treaty, the Parties consider it necessary to develop a coast-wide stock assessment and managment data system including catch, effort, escapement, and coded-wire tag data that will yield reliable management information in a timely manner and to develop analytical models along with standardized methods for monitoring fishing effort. The Parties agree to maintain a coded-wire tagging and recapture program designed to provide statistically reliable data for stock assessments and fishery evaluations. The Parties agree to establish a working group prior to April 1, 1985 to review the program and to make recommendations to the Commission before April 1, 1987.

Therefore, the Parties agree to

(a) develop the capability to use current season coded-wire tag data, fishing data, spawning escapement data, and age composition data for the pre-season management process for the next season;

(b) continue in 1985 and 1986 the research program begun in 1982 in northern British Columbia and Southeast Alaska, designed to develop agreed estimates of rates of interception of salmon in the area;

(c) continue efforts to develop analytical models that forecast abundance and analyze recovery and escapement data to refine stock productivity estimates and monitor and forecast management needs;

(d) improve evaluation of escapements through improved monitoring (key index area streams, standardization of methods, etc.) and coded-wire tag recovery in escapements;

(e) develop and maintain coded-wire tagging programs for key stocks or index groups to measure exploitation rates and better define time-area distribution for development of management options;

(f) obtain coastwide estimates for non-reported incidental catches of juvenile salmon;

(g) evaluate and develop alternative techniques such as electrophoresis, scale analysis, etc., for stock identification in order to identify stocks not represented by coded-wire tag groups;

(h) explore the feasibility of in-season management;

(i) review annually methodologies and procedures for the purpose of determining performance of applied measures and maintaining "state-of-the-art" fishery management techniques.

C. Yukon River

Considering that salmon stocks originating from the Canadian section of the Yukon River and the Canadian section of the Porcupine River are harvested by fishermen of both Canada and the United States and that effective conservation and management of these resources is of mutual interest, the Parties, in order to facilitate implementation of Article VIII, shall

1. During March 1985, meet in order, *inter alia*, to
   (a) determine current stock status;
   (b) develop preliminary escapement goals;
   (c) examine enhancement opportunities;
   (d) examine conservation concerns, including habitat degradation, and recommend management strategies and goals;
   (e) develop and recommend cooperative research proposals for 1985 and thereafter; and
   (f) notwithstanding the Transboundary River Annex and other provisions of this Memorandum, establish the range within which the percentage of the U.S. harvest of each species of salmon originating in Canadian sections of the rivers that shall be deemed to be of U.S. origin shall be set, as required by Article VIII, paragraph (4).
2. During March 1985, establish a technical committee to compile available data and itemize research requirements for effective future management and conservation.
3. Notwithstanding the Transboundary River Annex and other provisions of this Memorandum, during October 1985, initiate negotiations as required by Article VIII, paragraph (3), to determine, *inter alia*, the percentage of the U.S. harvest of each species of salmon originating in Canadian sections of the rivers that shall be deemed to be of U.S. origin.

D. Transboundary Rivers

Whereas salmon originating in Canadian sections of Transboundary Rivers are subject to harvesting by U.S. fishermen in the U.S. waters;

And whereas the Parties have encountered difficulties in determining the percentage of the total allowable catch of salmon that shall be deemed to be of United States origin for the purpose of implementing Article III, paragraph 1(b) of the Treaty,

The Parties therefore agree that the Commission shall determine this percentage during the first year following the entry into force of the Treaty.

E. Northern Boundary—Southeastern Alaska

In recognition of the Northern Boundary Technical Committee Report which indicates that the Area 3 net fisheries in Canada harvest both Canadian and U.S. pink stocks along the boundary areas, Canada shall provide to the United States a plan that ensures that fisheries in this Area are not increased during the period of mid July through mid August.

DONE in duplicate at Ottawa, in the English and French languages, both versions being equally authentic, this 28th day of January 1985.

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1056

M. AVIATION AND SPACE

CONTENTS

Page
1. Convention for the Suppression of Unlawful Seizure of Aircraft 1059
2. Treaty on Outer Space 1064
3. Astronaut Assistance and Return Agreement 1070
4. Convention on International Liability for Damage Caused by Space Objects 1074

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1058

1. Convention for the Suppression of Unlawful Seizure of Aircraft

Done at The Hague December 16, 1970; Ratification advised by the Senate September 8, 1971; Ratification by the President of the United States of America September 14, 1971; Ratification of the United States of America deposited at Washington September 14, 1971; Proclaimed by the President of the United States of America October 18, 1971; Entered into force October 14, 1971 [1]

The States Parties to This Convention,

Considering that unlawful acts of seizure or exercise of control of aircraft in flight jeopardize the safety of persons and property, seriously affect the operation of air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;

Considering that the occurrence of such acts is a matter of grave concern;

Considering that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

Have agreed as follows:

Article 1

Any person who on board an aircraft in flight:

(*a*) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act, or

(*b*) is an accomplice of a person who performs or attempts to perform any such act

commits an offence (hereinafter referred to as "the offence").

Article 2

Each Contracting State undertakes to make the offence punishable by severe penalties.

Article 3

1. For the purposes of this Convention, an aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board.

2. This Convention shall not apply to aircraft used in military, customs or police services.

3. This Convention shall apply only if the place of take-off or the place of actual landing of the aircraft on board which the offence is

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[1] 22 UST 1641; TIAS 7192. For a list of states which are parties to the Convention, see Department of State publication, *Treaties in Force.*

committed is situated outside the territory of the State of registration of that aircraft; it shall be immaterial whether the aircraft is engaged in an international or domestic flight.

4. In the cases mentioned in Article 5, this Convention shall not apply if the place of take-off and the place of actual landing of the aircraft on board which the offence is committed are situated within the territory of the same State where that State is one of those referred to in that Article.

5. Notwithstanding paragraphs 3 and 4 of this Article, Articles 6, 7, 8 and 10 shall apply whatever the place of take-off or the place of actual landing of the aircraft, if the offender or the alleged offender is found in the territory of a State other than the State of registration of that aircraft.

ARTICLE 4

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offence and any other act of violence against passengers or crew committed by the alleged offender in connection with the offence, in the following cases:

(*a*) when the offence is committed on board an aircraft registered in that State;

(*b*) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;

(*c*) when the offence is committed on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that State.

2. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offence in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

ARTICLE 5

The Contracting States which establish joint air transport operating organizations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registration for the purpose of this Convention and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

ARTICLE 6

1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the offender or the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures

shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.

4. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the State of registration of the aircraft, the State mentioned in Article 4, paragraph 1(*c*), the State of nationality of the detained person and, if it considers it advisable, any other interested States of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

ARTICLE 7

The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

ARTICLE 8

1. The offence shall be deemed to be included as an extraditable offence in any extradition treaty existing between Contracting States. Contracting States undertake to include the offence as an extraditable offence in every extradition treaty to be concluded between them.

2. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offence. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. Contracting States which do not make extradition conditional on the existence of a treaty shall recognize the offence as an extraditable offence between themselves subject to the conditions provided by the law of the requested State.

4. The offence shall be treated, for the purpose of extradition between Contracting States, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with Article 4, paragraph 1.

ARTICLE 9

1. When any of the acts mentioned in Article 1(*a*) has occurred or is about to occur, Contracting States shall take appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.

2. In the cases contemplated by the preceding paragraph, any Contracting State in which the aircraft or its passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

ARTICLE 10

1. Contracting States shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offence and other acts mentioned in Article 4. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 of this Article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

ARTICLE 11

Each Contracting State shall in accordance with its national law report to the Council of the International Civil Aviation Organization as promptly as possible any relevant information in its possession concerning:

(*a*) the circumstances of the offence;

(*b*) the action taken pursuant to Article 9;

(*c*) the measures taken in relation to the offender or the alleged offender, and, in particular, the results of any extradition proceedings or other legal proceedings.

ARTICLE 12

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.

3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary Governments.

ARTICLE 13

1. This Convention shall be open for signature at The Hague on 16 December 1970, by States participating in the International Conference on Air Law held at The Hague from 1 to 16 December 1970 (hereinafter referred to as The Hague Conference). After 31 December 1970, the Convention shall be open to all States for signature in Moscow, London and Washington. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Convention shall be subject to ratification by the signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, which are hereby designated the Depositary Governments.

3. This Convention shall enter into force thirty days following the date of the deposit of instruments of ratification by ten States signatory to this Convention which participated in The Hague Conference.

4. For other States, this Convention shall enter into force on the date of entry into force of this Convention in accordance with paragraph 3 of this Article, or thirty days following the date of deposit of their instruments of ratification or accession, whichever is later.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of entry into force of this Convention, and other notices.

6. As soon as this Convention comes into force, it shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations [2] and pursuant to Article 83 of the Convention on International Civil Aviation (Chicago, 1944).[3]

ARTICLE 14

1. Any Contracting State may denounce this Convention by written notification to the Depositary Governments.

2. Denunciation shall take effect six months following the date on which notification is received by the Depositary Governments.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorised thereto by their Governments, have signed this Convention.

DONE at The Hague, this sixteenth day of December, one thousand nine hundred and seventy, in three originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.

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[2] TS 993; 59 Stat. 1052.

[3] TIAS 1591; 61 Stat. 1203.

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2. Treaty on Outer Space [1]

Text of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies; Signed at Washington, London and Moscow on January 27, 1967; Ratification advised by the Senate, April 25, 1967; Ratification by the President of the United States May 24, 1967; Ratifications of the Governments of the United States, the United Kingdom and the Union of Soviet Socialist Republics deposited with the said Governments at Washington, London and Moscow October 10, 1967; Proclaimed by the President October 10, 1967; Entered into Force October 10, 1967

The States Parties to this Treaty,

Inspired by the great prospects opening up before mankind as a result of man's entry into outer space,

Recognizing the common interest of all mankind in the progress of the exploration and use of outer space for peaceful purposes,

Believing that the exploration and use of outer space should be carried on for the benefit of all peoples irrespective of the degree of their economic or scientific development,

Desiring to contribute to broad international cooperation in the scientific as well as the legal aspects of the exploration and use of outer space for peaceful purposes,

Believing that such cooperation will contribute to the development of mutual understanding and to the strengthening of friendly relations between States and peoples,

Recalling resolution 1962 (XVIII), entitled "Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space", which was adopted unanimously by the United Nations General Assembly on 13 December 1963.

Recalling resolution 1884 (XVIII), calling upon States to refrain from placing in orbit around the Earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction or from installing such weapons on celestial bodies, which was adopted unanimously by the United Nations General Assembly on 17 October 1963.

Taking account of United Nations General Assembly resolution 110 (II) of 3 November 1947, which condemned propaganda designed or likely to provoke or encourage any threat to the peace breach of the peace or act of aggression, and considering that the aforementioned resolution is applicable to outer space.

Convinced that a Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, will further the Purposes and Principles of the Charter of the United Nations,

Have agreed on the following:

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[1] 18 UST 2410; TIAS 6347. For a list of states which are parties to the Treaty, see Dept. of State publication, *Treaties in Force*.

ARTICLE I

The exploration and use of outer space, including the moon and other celestial bodies, shall be carried out for the benefit and in the interests of all counties, irrespective of their degree of economic or scientific development, and shall be the province of all mankind.

Outer space, including the moon and other celestial bodies, shall be free for exploration and use by all States without discrimination of any kind, on a basis of equality and in accordance with international law, and there shall be free access to all areas of celestial bodies.

There shall be freedom of scientific investigation in outer space, including the moon and other celestial bodies, and States shall facilitate and encourage international cooperation in such investigation.

ARTICLE II

Outer space, including the moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.

ARTICLE III

States Parties to the Treaty shall carry on activities in the exploration and use of outer space, including the moon and other celestial bodies, in accordance with international law, including the Charter of the United Nations, in the interest of maintaining international peace and security and promoting international cooperation and understanding.

ARTICLE IV

States Parties to the Treaty undertake not to place in orbit around the Earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction, install such weapons on celestial bodies, or station such weapons in outer space in any other manner.

The moon and other celestial bodies shall be used by all States Parties to the Treaty exclusively for peaceful purposes. The establishment of military bases, installations and fortifications, the testing of any type of weapons and the conduct of military maneuvers on celestial bodies shall be forbidden. The use of military personnel for scientific research or for any other peaceful purposes shall not be prohibited. The use of any equipment or facility necessary for peaceful exploration of the moon and other celestial bodies shall also not be prohibited.

ARTICLE V

States Parties to the Treaty shall regard astronauts as envoys of mankind in outer space and shall render to them all possible assistance in the event of accident, distress, or emergency landing on the territory of another State Party or on the high seas. When astronauts make such a landing, they shall be safely and promptly returned to the State of registry of their space vehicle.

In carrying on activities in outer space and on celestial bodies, the astronauts of one State Party shall render all possible assistance to the astronauts of other States Parties.

States Parties to the Treaty shall immediately inform the other States Parties to the Treaty or the Secretary-General of the United Nations of any phenomena they discover in outer space, including the moon and other celestial bodies, which could constitute a danger to the life or health of astronauts.

ARTICLE VI

States Parties to the Treaty shall bear international responsibility for national activities in outer space, including the moon and other celestial bodies, whether such activities are carried on by governmental agencies or by non-governmental entities, and for assuring that national activites are carried out in conformity with the provisions set forth in the present Treaty. The activities of non-governmental entities in outer space, including the moon and other celestial bodies, shall require authorization and continuing supervision by the appropriate State Party to the Treaty. When activities are carried on in outer space, including the moon and other celestial bodies, by an international organization, responsibility for compliance with this Treaty shall be borne by the international organization and by the States Parties to the Treaty participating in such organization.

ARTICLE VII

Each State Party to the Treaty that launches or procures the launching of an object into outer space, including the moon and other celestial bodies, and each State Party from whose territory or facility an object is launched, is internationally liable for damage to another State Party to the Treaty or to its natural or juridical persons by such object or its component parts on the Earth, in air space or in outer space, including the moon and other celestial bodies.

ARTICLE VIII

A State Party to the Treaty on whose registry an object launched into outer space is carried shall retain jurisdiction and control over such object, and over any personnel thereof, while in outer space or on a celestial body. Ownership of objects launched into outer space, including objects landed or constructed on a celestial body, and of their component parts, is not affected by their presence in outer space or on a celestial body or by their return to the Earth. Such objects or component parts found beyond the limits of the State Party to the Treaty on whose registry they are carried shall be returned to that State Party, which shall, upon request, furnish identifying data prior to their return.

ARTICLE IX

In the exploration and use of outer space, including the moon and other celestial bodies, States Parties to the Treaty shall be guided by the principle of co-operation and mutual assistance and

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shall conduct all their activities in outer space, including the moon and other celestial bodies, with due regard to the corresponding interests of all other States Parties to the Treaty. States Parties to the Treaty shall pursue studies of outer space, including the moon and other celestial bodies, and conduct exploration of them so as to avoid their harmful contamination and also adverse changes in the environment of the Earth resulting from the introduction of extraterrestrial matter and, where necessary, shall adopt appropriate measures for this purpose. If a State Party to the Treaty has reason to believe that an activity or experiment planned by it or its nationals in outer space, including the moon and other celestial bodies, would cause potentially harmful interference with activities of other States Parties in the peaceful exploration and use of outer space, including the moon and other celestial bodies, is shall undertake appropriate international consultations before proceeding with any such activity or experiment. A State Party to the Treaty which has reason to believe that an activity or experiment planned by another State Party in outer space, including the moon and other celestial bodies, would cause potentially harmful interference with activities in the peaceful exploration and use of outer space, including the moon and other celestial bodies, may request consultation concerning the activity or experiment.

ARTICLE X

In order to promote international co-operation in the exploration and use of outer space, including the moon and other celestial bodies, in conformity with the purposes of this Treaty, the States Parties to the Treaty shall consider on a basis of the equality any requests by other States Parties to the Treaty to be afforded an opportunity to observe the flight of space objects launched by those States.

The nature of such an opportunity for observation and conditions under which it could be afforded shall be determined by agreement between the States concerned.

ARTICLE XI

In order to promote international co-operation in the peaceful exploration and use of outer space, States Parties to the Treaty conducting activities in outer space, including the moon and other celestial bodies, agree to inform the Secretary-General of the United Nations as well as the public and the international scientific community to the greatest extent feasible and practicable, of the nature, conduct, locations and results of such activities. On receiving the said information, the Secretary-General of the United Nations should be prepared to disseminate it immediately and effectively.

ARTICLE XII

All stations, installations, equipment and space vehicles on the moon and other celestial bodies shall be open to representatives of other States Parties to the Treaty on a basis of reciprocity. Such representatives shall give reasonable advance notice of a projected visit, in order that appropriate consultations may be held and that maximum precautions may be taken to assure safety and to avoid interference with normal operations in the facility to be visited.

ARTICLE XIII

The provisions of this Treaty shall apply to the activities of States Parties to the Treaty in the exploration and use of outer space, including the moon and other celestial bodies, whether such activities are carried on by a single State Party to the Treaty or jointly with other States, including cases where they are carried on within the framework of international inter-governmental organizations.

Any practical questions arising in connection with activities carried on by international inter-governmental organizations in the exploration and use of outer space, including the moon and other celestial bodies, shall be resolved by the States Parties to the Treaty either with the appropriate international organization or with one or more States members of that international organization, which are Parties to this Treaty.

ARTICLE XIV

1. This Treaty shall be open to all States for signature. Any State which does not sign this Treaty before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force upon the deposit of instruments of ratification by five Governments including the Governments designated as Depositary Governments under this Treaty.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, is shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification of and accession to this Treaty, the date of its entry into force and other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

ARTICLE XV

Any State Party to the Treaty may propose amendments to this Treaty. Amendments shall enter into force for each State party to the Treaty accepting the amendment upon their acceptance by a majority of the States Parties to the Treaty and thereafter for each remaining State Party to the Treaty on the date of acceptance by it.

ARTICLE XVI

Any State Party to the Treaty may give notice of its withdrawal from the Treaty one year after its entry into force by written notification to the Depositary Governments. Such withdrawal shall take effect one year from the date of receipt of this notification.

ARTICLE XVII

This Treaty, of which the English, Russian, French, Spanish and Chinese texts are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed this Treaty.

DONE in triplicate, at the cities of Washington, London and Moscow, this twenty-seventh day of January one thousand nine hundred sixty-seven.

3. Astronaut Assistance and Return Agreement[1]

Text of the Agreement on the Rescue of Astronauts, the Return of Astronauts and the return of Objects Launched into Outer Space; Signed at Washington, London and Moscow, April 22, 1968; Ratification advised by the Senate, October 8, 1968; Ratification by the President of the United States, October 18, 1968; Ratifications of the Government of the United States, the United Kingdom and the Union of Soviet Socialist Republics deposited with the said Governments at Washington, London, and Moscow, December 3, 1968; Proclaimed by the President, December 3, 1968; Entered into Force, December 3, 1968

The Contracting Parties,

Noting the great importance of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, which calls for the rendering of all possible assistance to astronauts in the event of accident, distress or emergency landing, the prompt and safe return of astronauts, and the return of objects launched into outer space,

Desiring to develop and give further concrete expression to those duties,

Wishing to promote international co-operation in the peaceful exploration and use of outer space,

Prompted by sentiments of humanity,

Have agreed on the following:

ARTICLE 1

Each Contracting Party which receives information or discovers that the personnel of a spacecraft have suffered accident or are experiencing conditions of distress or have made an emergency or unintended landing in territory under its jurisdiction or on the high seas or in any other place not under the jurisdiction of any State shall immediately:

(a) Notify the launching authority or, if it cannot identify and immediately communicate with the launching authority, immediately make a public announcement by all appropriate means of communication at its disposal;

(b) Notify the Secretary-General of the United Nations, who should disseminate the information without delay by all appropriate means of communication at his disposal.

ARTICLE 2

If, owing to accident, distress, emergency or unintended landing, the personnel of a spacecraft land in territory under the jurisdiction of the Contracting Party, it shall immediately take all possible steps to rescue them and render them all necessary assistance. It shall inform the launching authority and also the Secretary-General of the United Nations of the steps it is taking and of their progress. If assistance by the launching authority would help to effect a prompt rescue or would contribute substantially to the effectiveness of search and rescue operations, the launching authority shall co-operate with the Contracting Party with a view to the effective conduct of search and rescue operations. Such operations shall be subject to the direction and control of the Contracting Party, which shall act in close and continuing consultation with the launching authority.

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[1] 18 UST 7570; TIAS 6599. For a list of states which are parties to the Agreement, Department of State publication, *Treaties in Force.*

ARTICLE 3

If the information is received or it is discovered that the personnel of a spacecraft have alighted on the high seas on in any other place not under the jurisdiction of any State, those Contracting Parties which are in a position to do so shall, if necessary, extend assistance in search and rescue operations for such personnel to assure their speedy rescue. They shall inform the launching authority and the Secretary-General of the United Nations of the steps they are taking and of their progress.

ARTICLE 4

If, owing to accident, distress, emergency or unintended landing, the personnel of a spacecraft land in territory under the jurisdiction of a Contracting Party or have been found on the high seas or in any other place under the jurisdiction of any State, they shall be safely and promptly returned to representatives of the launching authority.

ARTICLE 5

1. Each Contracting Party which receives information or discovers that a space object or its component parts had returned to Earth in territory under its jurisdiction or on the high seas or in any other place not under the jurisdiction of any State, shall notify the launching authority and the Secretary-General of the United Nations.

2. Each Contracting Party having jurisdiction over the territory on which a space object or its component parts has been discovered shall, upon the request of the launching authority and with assistance from that authority if requested, take such steps as it finds practicable to recover the object or component parts.

3. Upon request of the launching authority, objects launched into outer space or their component parts found beyond the territorial limits of the launching authority shall be returned to or held at the disposal or representatives of the launching authority, which shall, upon request, furnish identifying data prior to their return.

4. Notwithstanding paragraphs 2 and 3 of this article, a Contracting Party which has reason to believe that a space object or its component parts discovered in territory under its jurisdictions, or recovered by it elsewhere, is of a hazardous or deleterious nature may so notify the launching authority, which shall immediately

take effective steps, under the direction and control of the said Contracting Party, to eliminate possible danger of harm.

5. Expenses incurred in fulfilling obligations to recover and return a space object or its component parts under paragraphs 2 and 3 of this article shall be borne by the launching authority.

ARTICLE 6

For the purposes of this Agreement, the term "launching authority" shall refer to the State responsible for launching, or, where an international inter-governmental organization is responsible for launching, that organization, provided that that organization declares its acceptance of the rights and obligations provided for in this Agreement and a majority of the States members of that organization are Contracting Parties to this Agreement and to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.

ARTICLE 7

1. This Agreement shall be open to all States for signature. Any State which does not sign this Agreement before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Agreement shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics, which are hereby designated the Depositary Governments.

3. This Agreement shall enter into force upon the deposit of instruments of ratification by five Governments including the Governments designated as Depositary Governments under this Agreement.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Agreement, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification of and accession to this Agreement, the date of its entry into force and other notices.

6. This Agreement shall be registered by the Depository Governments pursuant to Article 102 of the Charter of the United Nations.

ARTICLE 8

Any State Party to the Agreement may propose amendments to this Agreement. Amendments shall enter into force for each State Party to the Agreement accepting the amendments upon their acceptance by a majority of the State Parties to the Agreement and thereafter for each remaining State Party to the Agreement on the date of acceptance by it.

ARTICLE 9

Any State Party to the Agreement may give notice of its withdrawal from the Agreement one year after its entry into force by written notification to the Depositary Governments. Such withdrawal shall take effect one year from the date of receipt of this notification.

ARTICLE 10

This Agreement, of which the English, Russian, French, Spanish and Chinese texts are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Agreement shall be transmitted by the Depository Government to the Governments of the signatory and acceding States.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed this Treaty.

4. Convention on International Liability for Damage Caused by Space Objects

Done at Washington, London, and Moscow March 29, 1972; Ratification advised by the Senate October 6, 1972; Ratification by the President of the United States of America May 18, 1973; Ratifications of the Government of the United States, the United Kingdom, and the Union of Soviet Socialist Republics deposited with the said Governments at Washington, London and Moscow October 9, 1973; Proclaimed by the President of the United States November 21, 1973; Entered into force October 9, 1973[1]

The States Parties to this Convention,

Recognizing the common interest of all mankind in furthering the exploration and use of outer space for peaceful purposes,

Recalling the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies,

Taking into consideration that, notwithstanding the precautionary measures to be taken by States and international intergovernmental organizations involved in the launching of space objects, damage may on occasion be caused by such objects,

Recognizing the need to elaborate effective international rules and procedures concerning liability for damage caused by space objects and to ensure, in particular, the prompt payment under the terms of this Convention of a full and equitable measure of compensation to victims of such damage,

Believing that the establishment of such rules and procedures will contribute to the strengthening of international cooperation in the field of the exploration and use of outer space for peaceful purposes,

Have agreed on the following:

ARTICLE I

For the purposes of this Convention:

(*a*) The term "damage" means loss of life, personal injury or other impairment of health; or loss of or damage to property of States or of persons, natural or juridical, or property of international intergovernmental organizations;

(*b*) The term "launching" includes attempted launching;

(*c*) The term "launching State" means:

(*i*) A State which launches or procures the launching of a space object;

(*ii*) A State from whose territory or facility a space object is launched;

(*d*) The term "space object" includes component parts of a space object as well as its launch vehicle and parts thereof.

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[1] 24 UST 2389, TIAS 7762. For a list of states which are parties to the Convention, see Department of State publication, *Treaties in Force*.

ARTICLE II

A launching State shall be absolutely liable to pay compensation for damage caused by its space object on the surface of the Earth or to aircraft in flight.

ARTICLE III

In the event of damage being caused elsewhere than on the surface of the Earth to a space object of one launching State or to persons or property on board such a space object by a space object of another launching State, the latter shall be liable only if the damage is due to its fault or the fault of persons for whom it is responsible.

ARTICLE IV

1. In the event of damage being caused elsewhere than on the surface of the Earth to a space object of one launching State or to persons or property on board such a space object by a space object of another launching State, and of damage thereby being caused to a third State or to its natural or juridical persons, the first two States shall be jointly and severally liable to the third State, to the extent indicated by the following:

(*a*) If the damage has been caused to the third State on the surface of the Earth or to aircraft in flight, their liability to the third State shall be absolute;

(*b*) If the damage has been caused to a space object of the third State or to persons or property on board that space object elsewhere than on the surface of the Earth, their liability to the third State shall be based on the fault of either of the first two States or on the fault of persons for whom either is responsible.

2. In all cases of joint and several liability referred to in paragraph 1 of this article, the burden of compensation for the damage shall be apportioned between the first two States in accordance with the extent to which they were at fault; if the extent of the fault of each of these States cannot be established, the burden of compensation shall be apportioned equally between them. Such apportionment shall be without prejudice to the right of the third State to seek the entire compensation due under this Convention from any or all of the launching States which are jointly and severally liable.

ARTICLE V

1. Whenever two or more States jointly launch a space object, they shall be jointly and severally liable for any damage caused.

2. A launching State which has paid compensation for damage shall have the right to present a claim for indemnification to other participants in the joint launching. The participants in a joint launching may conclude agreements regarding the apportioning among themselves of the financial obligation in respect of which they are jointly and severally liable. Such agreements shall be without prejudice to the right of a State sustaining damage to seek

the entire compensation due under this Convention from any or all of the launching States which are jointly and severally liable.

3. A State from whose territory or facility a space object is launched shall be regarded as a participant in a joint launching.

ARTICLE VI

1. Subject to the provisions of paragraph 2 of this article, exoneration from absolute liability shall be granted to the extent that a launching State establishes that the damage has resulted either wholly or partially from gross negligence or from an act or omission done with intent to cause damage on the part of a claimant State or of natural or juridical persons it represents.

2. No exoneration whatever shall be granted in cases where the damage has resulted from activities conducted by a launching State which are not in conformity with international law including, in particular, the Chapter of the United Nations and the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.

ARTICLE VII

The provisions of this Convention shall not apply to damage caused by a space object of a launching State to:

(*a*) Nationals of that launching State;

(*b*) Foreign nationals during such time as they are participating in the operation of that space object from the time of its launching or at any stage thereafter until its descent, or during such time as they are in the immediate vicinity of a planned launching or recovery area as the result of an invitation by that launching State.

ARTICLE VIII

1. A State which suffers damage, or whose natural or juridical persons suffer damage, may present to a launching State a claim for compensation for such damage.

2. If the State of nationality has not presented a claim, another State may, in respect of damage sustained in its territory by any natural or juridical person, present a claim to a launching State.

3. If neither the State of nationality nor the State in whose territory the damage was sustained has presented a claim or notified its intention of presenting a claim, another State may, in respect of damage sustained by its permanent residents, present a claim to a launching State.

ARTICLE IX

A claim for compensation for damages shall be presented to a launching State through diplomatic channels. If a State does not maintain diplomatic relations with the launching State concerned, it may request another State to present its claim to that launching State or otherwise represent its interests under this Convention. It may also present its claim through the Secretary-General of the

United Nations, provided the claimant State and the launching State are both Members of the United Nations.

ARTICLE X

1. A claim for compensation for damage may be presented to a launching State not later than one year following the date of the occurrence of the damage or the identification of the launching State which is liable.

2. If, however, a State does not know of the occurrence of the damage or has not been able to identify the launching State which is liable, it may present a claim within one year following the date on which it learned of the aforementioned facts; however, this period shall in no event exceed one year following the date on which the State could reasonably be expected to have learned of the facts through exercise of due diligence.

3. The time-limits specified in paragraphs 1 and 2 of this article shall apply even if the full extent of the damage may not be known. In this event, however, the claimant State shall be entitled to revise the claim and submit additional documentation after the expiration of such time-limits until one year after the full extent of the damage is known.

ARTICLE XI

1. Presentation of a claim to a launching State for compensation for damage under this Convention shall not require the prior exhaustion of any local remedies which may be available to a claimant State or to natural or juridical persons it represents.

2. Nothing in this Convention shall prevent a State, or natural or juridical persons it might represent, from pursuing a claim in the courts or administrative tribunals or agencies of a launching State. A State shall not, however, be entitled to present a claim under this Convention in respect of the same damage for which a claim is being pursued in the courts or administrative tribunals or agencies of a launching State or under another international agreement which is binding on the States concerned.

ARTICLE XII

The compensation which the launching State shall be liable to pay for damage under this Convention shall be determined in accordance with international law and the principles of justice and equity, in order to provide such reparation in respect of the damage as will restore the person, natural or juridical, State or international organization on whose behalf the claim is presented to the condition which would have existed if the damage had not occurred.

ARTICLE XIII

Unless the claimant State and the State from which compensation is due under this Convention agree on another form of compensation, the compensation shall be paid in the currency of the claimant State or, if that State so requests, in the currency of the State from which compensation is due.

ARTICLE XIV

If no settlement of a claim is arrived at through diplomatic negotiations as provided for in article IX, within one year from the date on which the claimant State notifies the launching State that it has submitted the documentation of its claim, the parties concerned shall establish a Claims Commission at the request of either party.

ARTICLE XV

1. The Claims Commission shall be composed of three members: one appointed by the claimant State, one appointed by the launching State and the third member, the Chairman, to be chosen by both parties jointly. Each party shall make its appointment within two months of the request for the establishment of the Claims Commission.

2. If no agreement is reached on the choice of the Chairman within four months of the request for the establishment of the Commission, either party may request the Secretary-General of the United Nations to appoint the Chairman within a further period of two months.

ARTICLE XVI

1. If one of the parties does not make its appointment within the stipulated period, the Chairman shall, at the request of the other party, constitute a single-member Claims Commission.

2. Any vacancy which may arise in the Commission for whatever reason shall be filled by the same procedure adopted for the original appointment.

3. The Commission shall determine its own procedure.

4. The Commission shall determine the place or places where it shall sit and all other administrative matters.

5. Except in the case of decisions and awards by a single-member Commission, all decisions and awards of the Commission shall be by majority vote.

ARTICLE XVII

No increase in the membership of the Claims Commission shall take place by reason of two or more claimant States or launching States being joined in any one proceeding before the Commission. The claimant States so joined shall collectively appoint one member of the Commission in the same manner and subject to the same conditions as would be the case for a single claimant State. When two or more launching States are so joined, they shall collectively appoint one member of the Commission in the same way. If the claimant States or the launching States do not make the appointment within the stipulated period, the Chairman shall constitute a single-member Commission.

ARTICLE XVIII

The Claims Commission shall decide the merits of the claim for compensation and determine the amount of compensation payable, if any.

ARTICLE XIX

1. The Claims Commission shall act in accordance with the provisions of article XII.

2. The decision of the Commission shall be final and binding if the parties have so agreed; otherwise the Commission shall render a final and recommendatory award, which the parties shall consider in good faith. The Commission shall state the reasons for its decision or award.

3. The Commission shall give its decision or award as promptly as possible and no later than one year from the date of its establishment, unless an extension of this period is found necessary by the Commission.

4. The Commission shall make its decision or award public. It shall deliver a certified copy of its decision or award to each of the parties and to the Secretary-General of the United Nations.

ARTICLE XX

The expenses in regard to the Claims Commission shall be borne equally by the parties, unless otherwise decided by the Commission.

ARTICLE XXI

If the damage caused by a space object presents a large-scale danger to human life or seriously interferes with the living conditions of the population or the functioning of vital centers, the States Parties, and in particular the launching State, shall examine the possibility of rendering appropriate and rapid assistance to the State which has suffered the damage, when it so requests. However, nothing in this article shall affect the rights or obligations of the States Parties under this Convention.

ARTICLE XXII

1. In this Convention, with the exception of articles XXIV to XXVII, references to States shall be deemed to apply to any international intergovernmental organization which conducts space activities if the organization declares its acceptance of the rights and obligations provided for in this Convention and if a majority of the States members of the organization are States Parties to this Convention and to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.

2. States members of any such organization which are States Parties to this Convention shall take all appropriate steps to ensure that the organization makes a declaration in accordance with the preceding paragraph.

3. If an international intergovernmental organization is liable for damage by virtue of the provisions of this Convention, that organization and those of its members which are States Parties to this Convention shall be jointly and severally liable; provided, however, that:

(*a*) Any claim for compensation in respect to such damage shall be first presented to the organization;

(*b*) Only where the organization has not paid, within a period of six months, any sum agreed or determined to be due as compensation for such damage, may the claimant State invoke the liability of the members which are States Parties to this Convention for the payment of that sum.

4. Any claim, pursuant to the provisions of this Convention, for compensation in respect of damage caused to an organization which has made a declaration in accordance with paragraph 1 of this article shall be presented by a State member of the organization which is a State Party to this Convention.

ARTICLE XXIII

1. The provisions of this Convention shall not affect other international agreements in force insofar as relations between the States Parties to such agreements are concerned.

2. No provision of this Convention shall prevent States from concluding international agreements reaffirming, supplementing or extending its provisions.

ARTICLE XXIV

1. This Convention shall be open to all States for signature. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics, which are hereby designated the Depositary Governments.

3. This Convention shall enter into force on the deposit of the fifth instrument of ratification.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification of and accession to this Convention, the date of its entry into force and other notices.

6. This Convention shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

Article XXV

Any State Party to this Convention may propose amendments to this Convention. Amendments shall enter into force for each State Party to the Convention accepting the amendments upon their acceptance by a majority of the States Parties to the Convention and thereafter for each remaining State Party to the Convention on the date of acceptance by it.

Article XXVI

Ten years after the entry into force of this Convention, the question of the review of this Convention shall be included in the provisional agenda of the United Nations General Assembly in order to consider, in the light of past application of the Convention, whether it requires revision. However, at any time after the Covention has been in force for five years, and at the request of one third of the States Parties to the Convention, and with the concurrence of the majority of the States Parties, a conference of the States Parties shall be convened to review this Convention.

Article XXVII

Any State Party to this Convention may give notice of its withdrawal from the Convention one year after its entry into force by written notification to the Depositary Governments. Such withdrawal shall take effect one year from the date of receipt of this notification.

Article XXVIII

This Convention, of which the English, Russian, French, Spanish and Chinese texts are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Convention shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

In witness whereof the undersigned, duly authorized, have signed this Convention.

Done in triplicate, at the cities of Washington, London and Moscow, this twenty-ninth day of March, one thousand nine hundred and seventy-two.

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USE OF THE INDEX

The index is organized by subject matter only. Each subject entry also includes the legal citation indicating the document to which it refers. These legal citations were not chosen on the basis of standard legal citation form, but rather for the amount of information they provided and for convenience in producing a computer-printed index. A list of abbreviations used in the legal citation section of the index appears below:

ADF—African Development Fund
Art—Article
CFR—Code of Federal Regulations
DSB—Department of State Bulletin
FAM—Foreign Affairs Manual
fn—footnote
FR—Federal Register
IFAD—International Fund for Agricultural Development
M/L—Memoranda/Letter
NSC—National Security Council
Para.—Paragraph
PL—Public Law
RP—Reorganization Plan
Sched.—Schedule
S.C. Res.—Security Council Resolution (U.N.)
Sec.—Section
Stat.—United States Statutes at Large
TIAS—Treaties and Other International Acts Series
UST—United States Treaties and Other International Agreements

In addition, some documents without legal citations supplement treaties or agreements which precede them in the arrangement of the volume. These documents are indicated by the citation to the treaty or agreement plus one of the following:

R—Reservation
U—Understanding
Pr—Protocol
T—Table

Page references, wherever possible, indicate the exact page on which mention of the entry is made. Entries of a more general nature that refer to a large section or to an entire document are listed with the page on which the reference begins.

GLOSSARY OF TERMS USED IN THE INDEX

ACDA	Arms Control and Disarmament Agency
ADB	Asian Development Bank
AfDF	African Development Fund
AID	Agency for International Development
ANZUS	Security Treaty between Australia, New Zealand and the United States
EEC	European Economic Community
FAO	Food and Agriculture Organization
GATT	General Agreement on Tariffs and Trade
IADB	Inter-American Development Bank
IAEA	International Atomic Energy Agency
IBRD	International Bank for Reconstruction and Development
ICBM	Intercontinental Ballistic Missiles
IDA	International Development Association
IFAD	International Fund Agricultural Development
IFC	International Finance Corporation
IMCO	Intergovernmental Maritime Consultative Organization
IMF	International Monetary Fund
MIA	Missing-In-Action
NATO	North Atlantic Treaty Organization
OAS	Organization of American States
OAU	Organization of African Unity
OPIC	Overseas Private Investment Corporation
POW	Prisoners-of-War
SALT	Strategic Arms Limitation Talk
SEATO	Southeast Asia Treaty Organization
SLBM	Submarine-launched ballistic missiles
U.N.	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Program
UNESCO	United Nations Education, Scientific, and Cultural Organization
USIA	United States Information Agency

INDEX

Page

A

ABM
  (see SALT)
Act of Bogota
  (see also Operation Pan America) — DSB 60-537 — 836
ACTION
  (see also Foreign Service)
  (see also Peace Corps)
ADB
  agreement establishing
    interpretation — TIAS 6103 Art 60 — 578
  approval deemed given — TIAS 6103 Art 62 — 578
  arbitration — TIAS 6103 Art 61 — 578
  assets distributed — TIAS 6103 Art 47 — 574
  Board of Directors
    membership — TIAS 6103 Art 30 — 568
    powers — TIAS 6103 Art 31 — 569
    procedure — TIAS 6103 Art 32 — 569
  Board of Governors
    membership — TIAS 6103 Art 27 — 567
    powers — TIAS 6103 Art 28 — 567
    procedure — TIAS 6103 Art 29 — 567
  borrowing by — TIAS 6103 Art 21 — 563
  capital stock — TIAS 6103 Art 5 — 554
    TIAS 6103 Art 7 — 557
    TIAS 6103 Annex A — 579
    authorized — TIAS 6103 Art 4 — 554
    payments — TIAS 6103 Art 6 — 555
    separate disposal — TIAS 6103 Art 10 — 557
  commissions — TIAS 6103 Art 16 — 561
  commissions on loans — TIAS 6103 Art 16-17 — 561
  currencies — TIAS 6103 Art 24 — 565
    convertibility — TIAS 6103 Art 23 — 564
    maintenance of value — TIAS 6103 Art 25 — 566
  currencies for for loans — TIAS 6103 Art 13 — 559
  functions — TIAS 6103 Art 2 — 553
  guarantee fees — TIAS 6103 Art 16-17 — 561
  liabilities
    methods of meeting — TIAS 6103 Art 18 — 562
  loans and guarantees
    terms and conditions — TIAS 6103 Art 15 — 560
  location of — TIAS 6103 Art 37 — 571
  member banks — TIAS 6103 Art 38 — 571
  membership — TIAS 6103 Art 3 — 553
    communication with — TIAS 6103 Art 38 — 571
    liability — TIAS 6103 Art 46 — 574
    settlement of accounts — TIAS 6103 Art 43 — 572
    suspension of — TIAS 6103 Art 42 — 572
    withdrawal — TIAS 6103 Art 41 — 572
  net income
    distribution to
      members — TIAS 6103 Art 40 — 571
  officers — TIAS 6103 Art 34-35 — 570
  operations
    limitations on — TIAS 6103 Art 12 — 558
    methods of — TIAS 6103 Art 11 — 558
    suspension of — TIAS 6103 Art 44 — 573
    termination of — TIAS 6103 Art 45 — 574
    types of — TIAS 6103 Art 9 — 557
  ordinary operations — TIAS 6103 Art 9 — 557
  organization — TIAS 6103 Art 26 — 566
  political activity
    prohibited — TIAS 6103 Art 36 — 571
  principles — TIAS 6103 Art 14 — 559
  privileges and immunities
    archives — TIAS 6103 Art 52 — 575
    assets — TIAS 6103 Art 51 — 575
      TIAS 6103 Art 53 — 575
    communications — TIAS 6103 Art 54 — 575
    free taxation — TIAS 6103 Art 56 — 576
    implementation — TIAS 6103 Art 57 — 577
    judicial — TIAS 6103 Art 50 — 575
    legal — TIAS 6103 Art 49 — 575
    personnel — TIAS 6103 Art 55 — 576
    purpose — TIAS 6103 Art 48 — 574
    waiver — TIAS 6103 Art 58 — 577
  purpose — TIAS 6103 Art 1 — 552
  reports — TIAS 6103 Art 39 — 571
  securities
    notice on — TIAS 6103 Art 22 — 564
  Special Funds — TIAS 6103 Art 19 — 562
    TIAS 6103 Art 20 — 563
  special operations — TIAS 6103 Art 9 — 557
  special reserve — TIAS 6103 Art 17 — 561
  voting power — TIAS 6103 Art 33 — 569
  voting procedure — TIAS 6103 Annex B — 581
ADF

			Page
ADF--Continued			
African Development Bank			
relationship	TIAS 8605	Art 31	598
agreement establishing	TIAS 8605		585
articles of agreement	TIAS 8605		585
currencies	TIAS 8605	Art 11-13	589
membership	TIAS 8605	Art 3	586
withdrawal	TIAS 8605	Art 37	599
operations	TIAS 8605	Art 14-21	590
financing	TIAS 8605	Art 15-16	590
technical assistance	TIAS 8605	Art 19	593
organization	TIAS 8605	Art 22-36	593
privileges and immunities	TIAS 8605	Art 41-50	602
purpose	TIAS 8605	Art 2	586
resources	TIAS 8605	Art 4-10	586
subscription payment	TIAS 8605	Art 9	588
subscriptions	TIAS 8605	Art 4-10	587
African Development Fund			
(see ADF)			
Agricultural commodities, wheat			
(see Wheat)			
Agricultural commodity sales			
(see also IFAD)			
wheat	22 UST 820		329
availability	22 UST 820	Art 5	333
commercial purchases	22 UST 820	Art 3(1)	331
concessional			
transactions	22 UST 820	Art 9	335
disputes	22 UST 820	Art 7	334
prices	22 UST 820	Art 21	341
reporting	22 UST 820	Art 4	332
special transactions	22 UST 820	Art 3(2)	331
Agriculture, Secretary of			
(see also Agricultural commodity sales)			
Aircraft			
offenses in flight	22 UST 1641	Art 1	1059
piracy	13 UST 2312	Art 14-21	1016
Aliens			
(see also Refugee relief)			
Allegiance			
(see Loyalty)			
Alliance for Progress			
ad hoc committee	DSB 61-463	Title 2 Ch 5	848
Inter-American Committee on the Alliance for Progress	TIAS 2361	Art 149	831
organization	DSB 61-463	Title 2 Ch 5	848
panel of experts	DSB 61-463	Title 2 Ch 5	848
self-help requirements	DSB 61-463	Title 2 Ch 2	845
short-term aid	DSB 61-463	Title 2 Ch 3	846
trade			
national efforts	DSB 61-463	Title 2 Ch 1	844
international efforts	DSB 61-463	Title 2 Ch 2	845
U.N. relations with	DSB 61-463	Title 2 Ch 4	847
	DSB 61-463	Title 2 Ch 5	848
U.S. aid	DSB 61-463	Title 2 Ch 3	846
	DSB 61-463	Title 2 Ch 4	847
Ambassadors and ministers			
(see also Foreign ministers)			
responsibilities	Letter		132
Antarctic Treaty	12 UST 794		101
military use			
prohibited	12 UST 794	Art 1	101
scientific cooperation	12 UST 794	Art 3	102
Anti-Ballistic Missile System			
(see SALT)			
Anti-dumping			
administrative procedures	TIAS 9650	Art 5-7	317
code	TIAS 9650	Art 1-12	313
Committee on Anti-Dumping Practices	TIAS 9650	Art 14	324
countervailing duties			
defined	TIAS 9650	Art 6	318
determination of	TIAS 9650	Art 2	313
developing countries	TIAS 9650	Art 13	323
disposal of surplus products			
Alliance for Progress	DSB 61-463	Title 4 Ch 2	853
dispute settlement	TIAS 9650	Art 15	324
duties			
defined	TIAS 9650	Art 6	318
GATT	TIAS 1700	Ad Art 6	299
permitted by GATT	TIAS 9650	Art 2	313
duties imposed	TIAS 9650	Art 7-11	319
duration of	TIAS 9650	Art 9	321
provisional	TIAS 9650	Art 10	322
retroactive	TIAS 9650	Art 11	322
injury determined	TIAS 9650	Art 3	315

Page

- Anti-dumping--Continued
  - investigation of dumping
    - evidence------------- TIAS 9650 Art 6 318
    - initiated------------- TIAS 9650 Art 5 317
    - termination of------- TIAS 9650 Art 7 319
  - parties to agreement on---- TIAS 9650 Art 13 323
  - principles--------------- TIAS 9650 Art 1 313
  - provisional measures------- TIAS 9650 Art 7 319
    - TIAS 9650 Art 10 322
  - third country interest----- TIAS 9650 Art 12 323
- ANZUS Pact
  - consultations------------- TIAS 2493 Art 3 864
    - TIAS 2493 Art 8 864
  - council of--------------- TIAS 2493 Art 7 864
  - U.N. relations with-------- TIAS 2493 Art 1 863
- Arab-Israeli conflict
  - (see Middle East)
- Arbitration
  - (see also Conciliation)
  - (see also Permanent Court of Arbitration)
  - (see also World Court)
  - ADB------------------- TIAS 6103 Art 61 578
  - arbitrators
    - changes in----------- 17 UST 1270 Art 56-58 624
  - IADB------------------- TIAS 4307 Art 13 Sec 2 509
  - IDA-------------------- TIAS 4607 Art 10 531
  - IFC-------------------- TIAS 3620 Art 8 472
  - investment disputes-------- 17 UST 1270 Art 48-55 621
    - changes in awards----- 17 UST 1270 Art 50-52 622
    - constitution of tribunal------------ 17 UST 1270 Art 37-40 619
    - enforcement of awards- 17 UST 1270 Art 53-55 623
  - request for
    - investment disputes--- 17 UST 1270 Art 36 619
  - tribunal
    - proceedings----------- 17 UST 1270 Art 44-47 620
  - tribunals
    - Convention for the Pacific Settlement of International Disputes----------- 17 UST 1578 Art 9 208
    - importing materials--- 17 UST 1578 Art 9 208
- Arbitrators
  - (see Arbitration)
- Archives
  - IDA
    - privileges and immunities---------- TIAS 4607 Art 6 Sec 5 529
  - IFC
    - privileges and immunities---------- TIAS 3620 Art 6 Sec 5 470
  - IMF
    - privileges and immunities---------- TIAS 1501 Art 9 Sec 5 308
- Argentina
  - OAS Charter
    - interpretation of----- TIAS 6847 II 835
- Armed Forces
  - (see Military)
- Arms control
  - (see also SALT)
  - biological weapons-------- TIAS 8062 96
  - general treaty
    - negotiations for------ TIAS 6839 Art 6 37
  - Latin America------------- Add Protocol I 45
    - Treaty 47
    - Additional Protocol I understandings------ S. Resolution 45
  - nuclear weapons
    - accidental firings---- 22 UST 1590 Art 1 61
    - nonproliferation of--- TIAS 6839 34
    - tests of------------- 14 UST 1313 31
  - peaceful nuclear activities 22 UST 754 40
  - Seabeds
    - conference----------- TIAS 7337 Art 7 65
    - inspections---------- TIAS 7337 Art 3 64
    - negotiations--------- TIAS 7337 Art 5 65
    - outer limits--------- TIAS 7337 Art 1-2 63
    - territorial claims--- TIAS 7337 Art 4 65
    - U.N. role------------ TIAS 7337 Art 3 64
      - TIAS 7337 Art 8 65
  - U.N. General Assembly's authority---------------- 59 Stat. 1031 Art 11 710
  - U.S. Security Council plans for-------------------- 59 Stat. 1031 Art 26 714
- Art
  - (see also Educational and cultural exchange)
  - defined------------------ 17 UST 1835 Annex B 216

Page

Art--Continued
import regulations on------ 17 UST 1035 Annex B 216
Art treasures
trade restrictions on------ TIAS 1700 Art 20 278
Asia
(see ADB)
Asian Development Bank
(see ADB)
Astronautics
(see Outer space)
Atomic energy
export licenses------------ 10 CFR Sec 110.20-53 663
export of
hearings------------ 10 CFR Sec 110.100 682
NRC regulations------ 10 CFR Sec 110 658
public notification--- 10 CFR Sec 110.70 677
import of
NRC regulations------ 10 CFR Sec 110 650
Australia
ANZUS Pact---------------- TIAS 2493 863

B

Balance of payments
IMF---------------------- TIAS 1700 Art 15 267
less developed countries-- TIAS 1700 Art 18 271
quantitative trade
restrictions------------ TIAS 1700 Art 12 262
special exchange agreements
GATT---------------- TIAS 1700 Art 15 267
trade restrictions-------- TIAS 1700 Ad Art 12 301
GATT---------------- TIAS 1700 Art 15 267
Banks
(see ADB)
(see IADB)
(see World Bank)
Beirut Agreement of 1949
(see Educational and
cultural exchange,
importing material)
Belize
claims by Guatemala-------- TIAS 2361 B 832
Biological warfare
(see Chemical and
biological warfare)
Biological Weapons Convention-- TIAS 8062 96
withdrawal from------------ TIAS 8062 Art 13(2) 96
Blind
educational and cultural
materials for------------ 17 UST 1835 Art 2 205
17 UST 1835 Annex E 218
Board of Examiners for the
Foreign Service
(see Foreign Service)
Books, publications and
documents
(see Educational and
cultural exchange,
importing materials)
Borrowing
(see respective financial
institutions)
Boundaries
territorial seas----------- 15 UST 1606 Art 1-24 1005
Boundary disputes
Guatemala-Belize----------- TIAS 2361 B 832
Honduras-Nicaragua--------- TIAS 1038 B 803
Brain drain
(see also Education)
(see also Educational and
cultural exchange)
(see also Science and
technology)
Bretton Woods
IMF articles formulated--- TIAS 1501 366
Bretton Woods Conference
membership in IMF---------- TIAS 1501 Art 2 Sec 1 367

C

Canada-U.S. relations
Pacific Salmon------------- Treaty Doc. 99-2 1034
memorandum of
understanding------ Treaty Doc. 99-2 1053
Capital stock
IDA
additional
subscriptions------ TIAS 4607 Art 3 Sec 1 517
initial subscriptions- TIAS 4607 Art 2 Sec 2 516
IFC----------------------- TIAS 3620 Art 2 Sec 2 461

Page

Capital stock--Continued
payment of subscriptions-------- TIAS 3620 Art 2 Sec 3 461
restricting transfer of---------------- TIAS 3620 Art 2 Sec 5 462
IMF-------------------------- TIAS 1501 Art 3 Sec 3 368
Capital transfers-------------- TIAS 1501 Art 6 Sec 1-3 379
Celestial bodies
(see Outer space)
Censorship
importing materials-------- 17 UST 1578 Art 5 207
Central America
World Court jurisdiction---------- Letter 747
World Court jurisdiction
termination of modification to declaration---------- Letter 748
Central American Common Market
(see Common markets)
Chapultepec, Act of
OAS Charter---------------- TIAS 2361 R 832
Chemical and biological warfare
Geneva Protocol of 1925---- TIAS 8061 94
international consultation- TIAS 8062 Art 5 97
production of weapons prohibited------------ TIAS 8062 96
prohibition of------------- TIAS 8061 94
stock-piling of weapons prohibited------------ TIAS 8062 96
U.N.
receiving complaints-- TIAS 8062 Art 6 98
weapons
conversion to peaceful use---------------- TIAS 8062 Art 2, 10 97
destruction of-------- TIAS 8062 Art 2 97
transfer prohibited--- TIAS 8062 Art 3 97
Chief of Protocol
gifts (foreign)------------ 22 CFR Sec 3.4-3.7 167
China (People's republic of)-U.S. relations
trade---------------------- Proc. 4697 231
Citizens
passports issued to-------- 22 CFR Sec 51.2 184
Citizenship
(see National'ty)
Claims
(see also IADB)
damage caused by space objects----------------- TIAS 7763 1074
Coastal water
(see Sea law)
Collective bargaining
(see Labor legislation)
Collective security
(see Mutual defense)
Colonies
applicability of treaties-- 17 UST 1578 Art 14 209
U.N.------------------------ 17 UST 1578 Art 14 209
59 Stat. 1031 Art 73-74 723
Commerce, Department of
trade functions------------ RP 3 Sec 2 224
Commodities
(see trade)
Common markets
Central American Economic Integration Treaty------- DSB 61-463 Title 3 850
industry
defined-------------- TIAS 9650 Art 4 316
Inter-American Development Bank------------------- DSB 61-463 Title 3 850
Latin America------------- TIAS 2361 Art 40 812
DSB 61-463 Title 1 842
DSB 61-463 Title 3 850
IMF role------------- DSB 61-463 Title 3 850
Latin American Free Trade Association------------- DSB 61-463 Title 3 850
Montevideo Treaty--------- DSB 61-463 Title 3 850
Communism
Southeast Asia
aggression in-------- TIAS 3170 P 871
U.S. national emergency---- 15 FR 9029 795
Community problems
(see Peace Corps)
Conciliation
investment disputes
commission----------- 17 UST 1270 Art 29-35 617
initiated------------ 17 UST 1270 Art 28 617
Conciliators
(see Arbitration)

		Page
Connally Reservation		
World Court jurisdiction	TIAS 1598 R	745
Conservation		
(see also Environmental affairs)		
Constitution (U.S.)		
(see also Treaty power)		
Consular officers		
duties of		
marriages	22 CFR Sec 52.1-52.5	160
registering births (abroad)	22 CFR Sec 50.7-50.8	139
	22 CFR Sec 50.5	139
Continental Shelf, Convention on the	15 UST 471	1030
Convention		
Continental Shelf	15 UST 471	1030
Fishing and Conservation of the Living Resources of the High Seas	17 UST 138	1022
Pacific Settlement of International Disputes		
importing material	17 UST 1578 Art 9	208
Settlement of Investment Disputes	17 UST 1270	610
formulation by IBRD	Resolution 65-14	630
Territorial Sea and the Contiguous Zone	15 UST 1606	1005
terrorism	TIAS 8413	770
Convention for the Suppression of Unlawful Seizure of Aircraft		
extraditable offenses	22 UST 1641 Art 8	1061
Convention on the Prevention and Punishment of the Crime of Genocide	G.A. Res. 260	705
Convention on the Settlement of Investment Disputes Between States and Nationals...		
amendment	17 UST 1270 Art 65-66	626
final provision	17 UST 1270 Art 67-75	626
Convention on the Settlement of Investment Disputes Between...		
(see also Investment disputes)		
Copyright, trademarks or patents		
importing materials	17 UST 1835 Art 6	207
Courts (U.S.)		
jurisdiction over U.N.	TIAS 1899 Sec 7-10	751
Courts		
jurisdiction (civil)		
territorial seas	15 UST 1606 Art 20	1010
jurisdiction (criminal)		
(see also Privileges and immunities)		
(see also World Court)		
jurisdiction		
(see also Privileges and immunities)		
(see also World Court)		
Crime against Humanity		
(see War crimes)		
Crimes		
against internationally protected persons	TIAS 8532	774
Cultural affairs		
(see Art)		
Cultural exchange		
(see Educational and cultural exchange)		
Cultural preservation		
Inter-American Council for Education, Science, and Culture	TIAS 2361 Art 99-104	823
OAS Charter	TIAS 2361 Art 45-50	813
Currencies (foreign)		
(see also Agricultural commodity sales)		
(see also Par values of currencies)		
(see also Source currencies)		
as compensation		
outer space claims	TIAS 7762 Art 13	1077
conversion rates	TIAS 1700 Art 17	269
exchange earnings		
Alliance for Progress	DSB 61-463 Title 1	842
exchange restrictions	TIAS 3620 Art 3 Sec 5	463
export earnings	TIAS 1700 Art 36	290

Page
Currencies (foreign)—Continued
IADB
conserving currencies— TIAS 4387 Art 5 Sec 8 494
IMF
substituting
securities————— TIAS 1501 Art 3 Sec 5 368
importing educational and
cultural materials——— 17 UST 1835 Art 2 205
multiple rates of exchange— TIAS 1700 Ad Art 8 301
IMF——————— TIAS 1700 Ad Art 16 303
scarce currencies————— TIAS 1501 Art 7 Sec 1-5 379
(see also Scarce
currencies)
special exchange agreements
GATT——————— TIAS 1700 Art 15 267
World Bank operations——— TIAS 1503 Art 4 Sec 2 440
TIAS 1503 Art 4 Sec 3 441
World Bank organization
form of holdings——— TIAS 1503 Art 5 Sec 12 448
Currencies
ADB
convertibility———— TIAS 6103 Art 23 560
maintenance of value— TIAS 6103 Art 25 566
ADB use——————— TIAS 6103 Art 13 559
TIAS 6103 Art 24 565
IADB
maintenance of value— TIAS 4387 Art 5 Sec 3 493
valuation————— TIAS 4387 Art 5 Sec 2 492
IADB use——————— TIAS 4387 Art 5 Sec 1 492
IDA
as supplementary
resources————— TIAS 4607 Art 3 Sec 2 518
maintenance of value— TIAS 4607 Art 4 Sec 2 519
use of————— TIAS 4607 Art 4 Sec 1 518
IFC
valuation of————— TIAS 3620 Art 3 Sec 7 464
IMF
discriminatory
currency practices— TIAS 1501 Art 8 Sec 3 381
repurchase by members— TIAS 1501 Art 5 Sec 7 373
TIAS 1501 Schedule B 409
Customs
transporting products
exempt from duties—— TIAS 1700 Art 5 256
valuation of products——— TIAS 1700 Art 17 263
Customs duties
(see also Import
regulations)
Customs unions
defined——————— TIAS 1700 Art 24 281
GATT——————— TIAS 1700 Art 24 281

D

Debts (foreign)
IMF——————— H/L 9 422
Decorations
(see Gifts (foreign))
Defense
(see Military, U.S.)
Denmark-U.S. relations
citizenship acquired by
U.S. legislation————— 22 CFR Sec 51.51 152
Denuclearization
(see Arms control)
Department of State
(see State, Department of)
Depositories
IFC——————— TIAS 3620 Art 4 Sec 9 467
Development
(see also Less developed
countries)
(see also U.N.)
economic
(see also Alliance for
Progress)
domestic resources—— DSB 60-537 III 839
exports————— DSB 60-537 III 839
human rights————— TIAS 2361 Art 43-44 812
Inter-American Economic and
Social Council————— TIAS 2361 Art 93-98 822
OAS Charter————— TIAS 2361 804
OAS standards————— TIAS 2361 Art 29-42 809
social
(see also Alliance for
Progress)
domestic resources—— DSB 60-537 IE 839
education————— DSB 60-537 IC 838
health care————— DSB 60-537 ID 838
housing————— DSB 60-537 IB 837

		Page
Development--Continued		
IADB special fund----	DSB 60-537 II	839
land tenure----------	DSB 60-537 IA	837
OAS Charter----------	TIAS 2361 Art 29-37	809
Diplomatic and consular service		
(see also Consular officers)		
(see also Foreign Service)		
privileges and immunities		
(see Privileges and immunities)		
Diplomatic missions		
chiefs of		
responsibilities------	Letter	132
Direct Communications Link		
(U.S. and USSR)----------	22 UST 1590 Art 6	62
Disarmament		
(see Arms control)		
Disputes		
(see Arbitration)		
(see Conciliation)		
(see OAS)		
(see U.N.)		
(see World Court)		
Dividends		
IFC----------------------	TIAS 3620 Art 4 Sec 12	468
Drug trade		
sea law		
right of innocent		
passage------------	15 UST 1606 Art 19	1009
Dumping		
(see Anti-dumping)		
E		
Economic development		
(see also Development)		
Inter-American Investment		
Corporation------------	IAIC	533
trade restrictions to		
foster----------------	TIAS 1700 Art 18	271
Economic integration		
(see Common markets)		
(see GATT)		
Ecuador		
OAS Charter		
interpretation of------	TIAS 6847 V	835
Education		
illiteracy		
Latin America--------	DSB 60-537 IC	838
OAS Charter----------	TIAS 2361 Art 48	816
Latin America		
Alliance for Progress-	DSB 61-463 Title 1	842
IAS efforts----------	DSB 60-537 IC	838
illiteracy-----------	DSB 60-537 IC	838
Inter-American Council		
for Education,		
Science, and Culture	TIAS 2361 Art 99-104	823
OAS Charter----------	TIAS 2361 Art 45-50	813
refugees---------------	19 UST 6260 Art 22	106
Education and cultural exchange		
(see also Japan-U.S. relations)		
(see also Science and technology)		
Beirut Agreement of 1949---	17 UST 1578	205
exhibitions		
materials for--------	17 UST 1835 Art 3	206
Florence Agreement--------	17 UST 1835	211
importing materials		
censorship-----------	17 UST 1578 Art 5	207
certificates---------	17 UST 1578 Art 4	206
	17 UST 1578 Art 6	207
materials defined-----	17 UST 1578 Art 1-2	205
	17 UST 1835 Annex A-E	216
privileges-----------	17 UST 1578 Art 3	206
regulations----------	17 UST 1835	211
restrictions---------	17 UST 1835 Art 7	207
U.S. reservation to---	17 UST 1835 R	218
OAS		
Inter-American Council		
for Education,		
Science, and Culture	TIAS 2361 Art 99-104	823
OAS Charter--------------	TIAS 2361 Art 45-50	813
EEC		
anti-dumping------------	TIAS 9650 Art 13	323
Emergencies (international)		
IMF		
liquidation of-------	TIAS 1501 Art 27 Sec 2	405
temporary suspension--	TIAS 1501 Art 27 Sec 1	404

Page

Emergencies (national)
  (see National emergency)
Emigration
  (see Immigration, foreign)
Employee-management relations
  (see Foreign Service)
Employment
  refugees------------------ 19 UST 6260 Art 17-19 185
Energy
  (see also International
    Energy Program)
  (see also Oil)
  international cooperation-- TIAS 8278 633
Environment
  nuclear weapons testn------ 14 UST 1313 31
  outer space contaminations- TIAS 6347 Art 9 1066
  outer space dangers to----- TIAS 7762 Art 21 1079
European Economic Community
  (see EEC)
Exchange
  (see Educational and
    cultural exchange)
Executive agreements
  (see Executive-legislative
    relations)
Executive-legislative relations
  international agreements
      transmittal of-------- Cir 175 Sec 724 118
Exhibitions
  (see USIA)
Expatriation
  (see Nationality)
Export-Import Bank
  trade functions------------ NP 3 Sec 3 225
Exports
  (see also Anti-dumping)
  (see also Trade)
  development of
      Alliance for Progress- DSB 61-463 Title 1 882
Extradition
  (see also Refugees,
    expulsion of)
  passport denial where
    extradition request has
    been made---------------- 22 CFR Sec 51.70 155
Extraterrestial law
  (see Outer space)

F

FAO
  fishing-------------------- 17 UST 138 Art 5 1023
Federal governments
  treaties implemented by---- 19 UST 6223 Art 6 176
                              19 UST 6260 Art 41 193
Federal-State jurisdiction
  (U.S.)
  reservations to treaties
      OAS Charter------------ TIAS 2361 R 832
Fellowships
  (see Educational and
    cultural exchange)
Financial institutions
  (see also respective
    organizations)
  international monetary
    system
      impairment of---------- R/L 9 Para. 6 423
Financing
  (see respective banks)
First strike capability
  U.S. policy toward--------- PL 92-448 Sec 5 68
Fisheries
  contiguous zone delimited-- 17 UST 138 Art 7 1024
  continental shelf
      exploitation of-------- 15 UST 471 Art 5 1031
  discrimination------------- 17 UST 138 Art 5 1023
      against foreign
        fishermen------------ 17 UST 138 Art 7 1024
  disputes------------------- 17 UST 138 Art 9-10 1025
  FAO------------------------ 17 UST 138 Art 5 1023
  intensity of operations---- 17 UST 138 R 1029
  international agreements--- 17 UST 138 Art 4 1023
      Canada----------------- Treaty Doc. 99-2 1034
  Pacific salmon
      Canada-U.S. relations-- Treaty Doc. 99-2 1034
  principle of abstention---- 17 UST 138 R 1029
  rights of nations---------- 17 UST 138 Art 1 1022
  scientific findings-------- 17 UST 138 Art 7 1024

Page

Fisheries--Continued
17 UST 138 Art 10 1025
seabed equipment fishing-- 17 UST 138 Art 13 1026
special commission for
disputes------------------ 17 UST 138 Art 5 1023
territorial sea delimited-- 17 UST 138 Art 7 1024
territorial seas---------- 17 UST 138 Art 6 1023
U.S.---------------------- 17 UST 138 Art 9 1025
unilateral measures------- 17 UST 138 Art 7 1024
Fishing and Conservation of the
Living Resources of the High
Seas, Convention on---------- 17 UST 138 1022
Florence Agreement
(see Educational and
cultural exchange
Food
(see also Agricultural
commodity sales)
(see also Agriculture)
(see also FAO)
(see also Fisheries)
(see also Food aid program)
(see also IFAD)
Food Aid Convention, 1971
Protocol for the Further
Extension of (1983)------ Treaty Doc. 98-5 356
Food Aid Convention, 1980------ TIAS 9878 345
Protocol for the Further
Extension of------------- Protocol 356
Food aid program
contributions------------- TIAS 9878 Art 3 346
disputes------------------ TIAS 9878 Art 11 349
Food Aid Committee-------- TIAS 9878 Art 5-11 348
international cooperation-- TIAS 9878 Art 3 346
Food and Agricultural
Organization
(see FAO)
Food supplies
(see also Food aid program)
Foreign aid
(see also OPIC)
personnel
(see also Peace Corps)
Foreign assistance
(see Foreign aid)
Foreign currencies
(see Currencies, foreign)
Foreign gifts and decorations
(see Gifts, foreign)
Foreign governments
(see Governments, foreign)
Foreign ministers
OAS organizations---------- TIAS 2361 Art 59-67 816
RIO Treaty of 1947
consultations------------ TIAS 1838 Art 11 800
Foreign Service
marriages
celebration of--------- 22 CFR Sec 51.2 148
passports
defined---------------- 22 CFR Sec 51.3 149
verification of-------- 22 CFR Sec 51.7 145
Foreign trade
(see Trade)
Formosa
(see China (Republic of))
Free-trade areas
defined-------------------- TIAS 1700 Art 24 281
GATT----------------------- TIAS 1700 Art 24 281
Fugitives
(see also Extradition)
(see also Hijacking)
(see also Refugees)
from U.S.
in U.S.---------------- TIAS 1899 Sec 9 752
Fund for Special Operations
(see IADB, Fund for Special
Operations)

G

GATT--------------------------- TIAS 1700 240
(see also Trade)
anti-dumping--------------- TIAS 9650 Art 13 323
anti-dumping duties-------- TIAS 1700 Art 6 255
TIAS 1700 Ad Art 6 299
balance of payments-------- TIAS 1700 Ad Art 12 301
cinematograph films
special provision for- TIAS 1700 Art 4 253
concessions---------------- TIAS 1700 Art 18 271

Page
GATT--Continued
concessions nullified------ TIAS 1700 Ad Art 28 307
TIAS 1700 Art 28 285
emergencies---------- TIAS 1700 Art 19 277
concessions withheld or
withdrawn-------------- TIAS 1700 Art 27 285
consultation among parties- TIAS 1700 Art 12 262
TIAS 1700 Art 22-23 279
consultations------------ TIAS 1700 Art 37 291
cooperation with IMF------- TIAS 1700 Art 15 267
countervailing duties------ TIAS 1700 Art 6 255
developed countries
obligations---------- TIAS 1700 Art 37 291
disequilibrium------------ TIAS 1700 Art 12 262
emergencies
domestic producers
threatened---------- TIAS 1700 Art 19 277
fees for exports and
imports---------------- TIAS 1700 Art 8 258
foreign currencies
conversion rates------ TIAS 1700 Art 17 269
Havana Charter------------ TIAS 1700 Art 29 288
IMF
multiple rates of
exchange------------ TIAS 1700 Ad Art 8 301
IMF par values------------ TIAS 1700 Art 2 250
interpreted--------------- TIAS 1700 Ad Art 1-29 297
joint action by parties---- TIAS 1700 Art 25 283
TIAS 1700 Art 38 293
less developed countries--- TIAS 1700 Ad Art 18 305
goals--------------- TIAS 1700 Art 36 290
quantitative
restrictions-------- TIAS 1700 Art 18 271
reciprocity---------- TIAS 1700 Art 36 290
TIAS 1700 Ad Art 36 310
margin of preference
defined-------------- TIAS 1700 Ad Art 1 297
Marketing Boards---------- TIAS 1700 Ad Art 17 304
marks of origin----------- TIAS 1700 Art 9 259
meetings------------------ TIAS 1700 Art 25 283
membership eligibility----- TIAS 1700 Art 35 290
Most-Favored-Nation
Treatment--------------- TIAS 1700 Art 1-2 249
TIAS 1700 Art 9 259
TIAS 1700 Ad Art 1 297
multiple rates of exchange
IMF------------------ TIAS 1700 Ad Art 16 303
national internal taxation- TIAS 1700 Art 3 252
national regulation-------- TIAS 1700 Art 3 252
national security interests TIAS 1700 Art 21 279
national trading
corporations------------ TIAS 1700 Art 17 269
penalties for violating
customs regulations------ TIAS 1700 Art 8 258
preferential arrangements
membership in----------- TIAS 1700 Annexes A-G 294
principal supplying
interest
negotiations with----- TIAS 1700 Ad Art 28 307
quantitative restrictions-- TIAS 1700 Art 15 267
TIAS 1700 Art 11 261
discrimination in
administering------ TIAS 1700 Art 13-14 264
less developed
countries---------- TIAS 1700 Art 18 271
permitted------------ TIAS 1700 Art 12 262
releasing parties from
obligations under-------- TIAS 1700 Art 18 271
releasing signatories from
obligations under-------- TIAS 1700 Art 12 262
restrictions inconsistent
with-------------------- TIAS 1700 Art 12 262
restrictions permitted----- TIAS 1700 Art 20 278
schedule of concessions---- TIAS 1700 Art 2 250
special exchange agreements TIAS 1700 Art 15 267
subsidies (governmental)--- TIAS 1700 Art 16 268
TIAS 1700 Ad Art 16 303
tariff
negotiating reduction
in------------------ TIAS 1700 Art 28 287
territorial application---- TIAS 1700 Art 24 281
TIAS 1700 Ad Art 24 307
trade benefits impaired---- TIAS 1700 Art 23 280
trade regulations
administration of----- TIAS 1700 Art 10 260
publication of-------- TIAS 1700 Art 10 260
transportation charges----- TIAS 1700 Ad Art 5 299
transporting products
freedom of----------- TIAS 1700 Art 5 254
U.S. relations with-------- TIAS 1700 Art 23 280

		Page
GATT--Continued		
	TIAS 1700 Art 38	293
valuations of products for customs purposes	TIAS 1700 Art 17	269
General Account		
(see (IMF, General Account)		
General Agreement on Tariffs and Trade		
(see GATT)		
General Services Administration		
gifts (foreign)		
disposal of	22 CFR Sec 3.6	169
Geneva Protocol of 1925	TIAS 8061	94
reservation of U.S.	TIAS 8061 R	95
Genocide Convention		
amendment to	S.J. Res. 387	791
reservations, understandings and declarations (U.S.)	S. Resolution	789
Senate resolution of ratification	S. Resolution	789
Genocide, Convention on the Prevention and Punishment of the Crime of	G.A. Res. 260	785
Gifts (foreign)		
Chief of Protocol		
authority of	22 CFR Sec 3.4-3.7	167
defined	22 CFR Sec 3.3	166
deposited	22 CFR Sec 3.5	168
	22 CFR Sec 3.6	169
inducement prohibited	22 CFR Sec 3.5	168
release to donor	22 CFR Sec 3.4	167
value	22 CFR Sec 3.5	168
burden of proof	22 CFR Sec 3.5	168
Guarantees		
(see respective financial institutions)		
Guatemala		
claims over Belize	TIAS 2361 R	832
reservation to OAS Charter	TIAS 2361 R	832

H

Havana Charter		
GATT	TIAS 1700 Art 29	288
Health care		
Alliance for Progress	DSB 61-463 Title 1	842
Latin America		
OAS efforts	DSB 60-537 IB	838
Hijackings		
high seas	13 UST 2312 Art 14-21	1016
penalty	22 UST 1641 Art 2	1059
piracy		
defined	13 UST 2312 Art 15	1016
Honduras		
boundary dispute with Nicaragua	TIAS 1838 R	803
reservation to RIO Treaty of 1947	TIAS 1838 R	803
Hostage release		
declarations	Declar.	237
Hot pursuit doctrine		
sea law	13 UST 2312 Art 23	1017
Housing		
Alliance for Progress	DSB 61-463 Title 1	842
Latin America		
OAS efforts	DSB 60-537 IB	837
refugees	19 UST 6260 Art 21	106
Human rights		
equality	59 Stat. 1031 Art 55	719
Genocide Convention	G.A. Res. 260	785
Inter-American Commission on Human Rights	TIAS 2361 Art 112	826
	TIAS 2361 Art 150	832
OAS Charter	TIAS 2361 Art 43-44	812
promotion by the U.N. Economic and Social Council	59 Stat. 1031 Art 68	722
Human Rights, Universal Declaration of	G.A. Res. 217	780
Hungary-U.S. relations		
trade	Proc. 4560	230

I

IADB	TIAS 4307	477
agreement establishing	TIAS 4307 Art 13 Sec 1	508
	TIAS 4307 Art 15 Sec 3	510
acceptance	TIAS 4307 Art 15 Sec 1	509
functions	TIAS 4307 Art 1 Sec 2	477

IADB--Continued

			Page
interpretation	TIAS 4387	Art 13 Sec 1	508
purpose	TIAS 4387	Art 1 Sec 1	477
arbitration	TIAS 4387	Art 13 Sec 2	509
assets distributed	TIAS 4387	Art 10 Sec 4	504
Board of Executive Directors	TIAS 4387	Art 8 Sec 3	499
Board of Governors	TIAS 4387	Art 8 Sec 2	498
capital			
inter-regional	TIAS 4387	Art 2A	481
capital stock			
disposal of	TIAS 4387	Art 3 Sec 3	484
claims			
payment of	TIAS 4387	Art 10 Sec 3	504
currencies			
conserved	TIAS 4387	Art 5 Sec 4	494
maintaining value	TIAS 4387	Art 5 Sec 3	493
use	TIAS 4387	Art 5 Sec 1	492
valuation	TIAS 4387	Art 5 Sec 2	493
defaults	TIAS 4387	Art 7 Sec 3	495
direct loans			
payment provisions for	TIAS 4387	Art 3 Sec 10	487
Fund for Special Operation			
quotas	TIAS 4387	Art 4 Sec 6	490
Fund for Special Operations			
administration	TIAS 4387	Art 4 Sec 8	491
applicable provisions	TIAS 4387	Art 4 Sec 2	488
contributions	TIAS 4387	Annex B	512
establishment	TIAS 4387	Art 4 Sec 1	488
liabilities discharged	TIAS 4387	Art 4 Sec 7	491
net profits			
distributed	TIAS 4387	Art 4 Sec 10	491
purpose	TIAS 4387	Art 4 Sec 1	488
resources	TIAS 4387	Art 4 Sec 3	488
suspension	TIAS 4387	Art 4 Sec 12	492
termination	TIAS 4387	Art 4 Sec 12	492
voting	TIAS 4387	Art 4 Sec 9	491
withdrawal of contributions	TIAS 4387	Art 4 Sec 11	491
guarantees	TIAS 4387	Art 3 Sec 11	487
loans	TIAS 4387	Art 3 Sec 4	484
lending			
optional conditions	TIAS 4387	Art 3 Sec 8	487
rules and conditions for	TIAS 4387	Art 3 Sec 7	486
use of loans	TIAS 4387	Art 3 Sec 9	487
liability of members	TIAS 4387	Art 10 Sec 3	504
limitation on operations	TIAS 4387	Art 3 Sec 5	485
loan financing	TIAS 4387	Art 3 Sec 6	486
location of offices	TIAS 4387	Art 14 Sec 1	509
member banks	TIAS 4387	Art 14 Sec 4	509
membership			
capital authorized	TIAS 4387	Art 2 Sec 2-5	478
communication with	TIAS 4387	Art 14 Sec 3	509
in general	TIAS 4387	Art 2 Sec 1	478
settlement of accounts	TIAS 4387	Art 9 Sec 3	503
suspension of	TIAS 4387	Art 9 Sec 2	503
withdrawal right	TIAS 4387	Art 9 Sec 1	503
net profits distributed	TIAS 4387	Art 7 Sec 4	497
officers	TIAS 4387	Art 8 Sec 5	501
operations			
categories	TIAS 4387	Art 3 Sec 2	483
special	TIAS 4387	Art 3 Sec 2	483
organization	TIAS 4387	Art 8 Sec 1	498
powers	TIAS 4387	Art 7 Sec 1	495
privileges and immunities	TIAS 4387	Art 11 Sec 1	506
archives	TIAS 4387	Art 11 Sec 5	506
assets	TIAS 4387	Art 11 Sec 4	506
	TIAS 4387	Art 11 Sec 6	506
communications	TIAS 4387	Art 11 Sec 7	507
judicial	TIAS 4387	Art 11 Sec 3	506
legal	TIAS 4387	Art 11 Sec 2	506
personal	TIAS 4387	Art 11 Sec 8	507
relations with other organizations	TIAS 4387	Art 14 Sec 2	509
reports	TIAS 4387	Art 8 Sec 6	502
resource categories	TIAS 4387	Art 2 Sec 1A	478
resources			
use of	TIAS 4387	Art 3 Sec 1	483
securities			
warnings on	TIAS 4387	Art 7 Sec 2	495
shares	TIAS 4387	Annex A	511
special commission	TIAS 4387	Art 3 Sec 12	488
Special Fund for Social Development	DSB 60-537	II	839
special reserve	TIAS 4387	Art 3 Sec 13	488
staff	TIAS 4387	Art 8 Sec 5	501
suspension of operations	TIAS 4387	Art 10 Sec 1	504
technical assistance	TIAS 4387	Art 6 Sec 1	494
agreements on	TIAS 4387	Art 6 Sec 2	494

Page

IADB--Continued
        - expenses------------ TIAS 4387 Art 6 Sec 3 494
    - termination of operations-- TIAS 4387 Art 10 Sec 2 508
    - voting---------------- TIAS 4387 Art 8 Sec 4 500

IBRD
- (see World Bank)

IDA
- (see also World Bank)
- arbitration------------ TIAS 4607 Art 10 531
- articles establishing------ TIAS 4607 Art 9 530
    - interpretation------- TIAS 4607 Art 11 Sec 3 532
- Board of Governors-------- TIAS 4607 Art 6 Sec 2 522
- capital stock
    - additional
        - subscriptions------ TIAS 4607 Art 3 Sec 1 517
    - initial subscriptions- TIAS 4607 Art 2 Sec 2 516
- conditions of financing---- TIAS 4607 Art 5 Sec 1 520
- currencies
    - as supplementary
        - resources--------- TIAS 4607 Art 3 Sec 2 518
    - maintenance of value-- TIAS 4607 Art 4 Sec 2 519
    - use of------------- TIAS 4607 Art 4 Sec 1 518
- Executive Directors-------- TIAS 4607 Art 6 Sec 4 523
- functions---------------- TIAS 4607 Art 5 Sec 5 521
- inauguration------------- TIAS 4607 Art 11 Sec 4 532
- income disposal---------- TIAS 4607 Art 6 Sec 12 525
- international organizations
    - cooperation with------ TIAS 4607 Art 5 Sec 4 521
    - relations with------- TIAS 4607 Art 5 Sec 4 521
        TIAS 4607 Art 6 Sec 7 525
- liability limited--------- TIAS 4607 Art 2 Sec 3 517
- location of offices-------- TIAS 4607 Art 6 Sec 8 525
- member banks------------- TIAS 4607 Art 6 Sec 9 525
- membership--------------- TIAS 4607 Art 2 Sec 1 516
    - communication with--- TIAS 4607 Art 6 Sec 10 525
    - suspension of-------- TIAS 4607 Art 7 Sec 2-3 526
    - termination of------- TIAS 4607 Art 7 Sec 3-4 526
    - voting power--------- TIAS 4607 Art 6 Sec 3 523
    - withdrawal----------- TIAS 4607 Art 7 Sec 1 525
- obligations
    - settlement of-------- TIAS 4607 Art 7 Sec 5 527
- organization------------- TIAS 4607 Art 6 Sec 1 522
- political activity
    - prohibition against--- TIAS 4607 Art 5 Sec 6 522
- president---------------- TIAS 4607 Art 6 Sec 5 524
- privileges and immunities
    - archives------------ TIAS 4607 Art 8 Sec 5 529
    - assets-------------- TIAS 4607 Art 8 Sec 4,5 529
    - communications------- TIAS 4607 Art 8 Sec 7 529
    - employees----------- TIAS 4607 Art 8 Sec 8 529
    - from taxation-------- TIAS 4607 Art 8 Sec 9 529
    - judicial------------ TIAS 4607 Art 8 Sec 3 528
    - officers------------ TIAS 4607 Art 8 Sec 8 529
    - purposes------------ TIAS 4607 Art 8 Sec 1 528
    - status of the
        - Association-------- TIAS 4607 Art 8 Sec 2 528
- purposes---------------- TIAS 4607 Art 1 515
- reports and information---- TIAS 4607 Art 6 Sec 11 525
- resources
    - supplementary--------- TIAS 4607 Art 3 Sec 2 518
    - use of-------------- TIAS 4607 Art 5 Sec 1 520
- staff------------------- TIAS 4607 Art 6 Sec 5 524
- suspension of operations--- TIAS 4607 Art 7 Sec 5 527
- terms of financing-------- TIAS 4607 Art 5 Sec 2 520
    - modification of------- TIAS 4607 Art 5 Sec 3 521
- World Bank relations with-- TIAS 4607 Art 6 Sec 6 524

IFAD
- agreement establishing----- IFAD 5
    - amendments---------- IFAD Art 12 17
    - entry into force------ IFAD Art 13 Sec 3 18
- contributions------------- IFAD Sched I Part II 20
- contributions to---------- IFAD Art 4 7
- currencies--------------- IFAD Art 5 9
- definitions--------------- IFAD Art 1 6
- Executive Board----------- IFAD Art 6 Sec 5-7 11
- Governing Council---------- IFAD Art 6 Sec 2-4 10
- members----------------- IFAD Sched I 20
- membership--------------- IFAD Art 3 7
    - withdrawal----------- IFAD Art 9 15
- objective---------------- IFAD Art 2 6
- operations--------------- IFAD Art 7 13
- organization------------- IFAD Art 6 10
- privileges and immunities-- IFAD Art 10 16
- resources---------------- IFAD Art 4 7
- U.S.
    - relations with-------- IFAD Art 8 15
- voting------------------- IFAD Sched II 22

IFC
- articles of agreement
    - arbitration---------- TIAS 3620 Art 8 472

			Page
IFC--Continued			
interpretation	TIAS 3620	Art 8	472
Board of Governors	TIAS 3620	Art 4 Sec 2	464
capital stock	TIAS 3620	Art 4 Sec 2-3	464
pledges and shares	TIAS 3620	Art 2 Sec 5	462
capital transfers			
restriction of	TIAS 3620	Art 2 Sec 5	462
Chairman	TIAS 3620	Art 4 Sec 5	466
currencies			
valuation of	TIAS 3620	Art 3 Sec 7	464
dividends	TIAS 3620	Art 4 Sec 12	468
financing	TIAS 3620	Art 3 Sec 1	462
forms of	TIAS 3620	Art 3 Sec 2	462
foreign exchange			
restrictions	TIAS 3620	Art 3 Sec 5	463
former members			
rights and duties of	TIAS 3620	Art 5 Sec 4	468
inauguration	TIAS 3620	Art 9 Sec 3	473
interests protected	TIAS 3620	Art 3 Sec 4	463
international organizations			
relations with	TIAS 3620	Art 4 Sec 7	467
liability limited	TIAS 3620	Art 2 Sec 4	462
location of offices	TIAS 3620	Art 4 Sec 8	467
member banks	TIAS 3620	Art 4 Sec 9	467
membership	TIAS 3620	Art 2 Sec 1	460
communication with	TIAS 3620	Art 4 Sec 10	467
suspension of	TIAS 3620	Art 5 Sec 2-3	468
termination of	TIAS 3620	Art 5 Sec 3	468
withdrawal of	TIAS 3620	Art 5 Sec 1	468
obligations settled	TIAS 3620	Art 5 Sec 5	469
operations			
miscellaneous	TIAS 3620	Art 3 Sec 6	463
principles	TIAS 3620	Art 3 Sec 3	463
organization	TIAS 3620	Art 4 Sec 1	464
political activity			
prohibition against	TIAS 3620	Art 3 Sec 9	464
President	TIAS 3620	Art 4 Sec 5	466
privileges and immunities	TIAS 3620 TIAS 3620	Art 6 Sec 2 Art 6 Sec 10	470 472
archives	TIAS 3620	Art 6 Sec 5	470
assets	TIAS 3620	Art 6 Sec 4,5	470
communications	TIAS 3620	Art 6 Sec 7	470
from taxation	TIAS 3620	Art 6 Sec 9	471
judicial	TIAS 3620	Art 6 Sec 3	470
personnel	TIAS 3620	Art 6 Sec 8	471
purpose	TIAS 3620	Art 6 Sec 1	470
waiver of	TIAS 3620	Art 6 Sec 11	472
purpose	TIAS 3620	Art 1	460
reports and information	TIAS 3620	Art 4 Sec 11	467
securities			
warnings on	TIAS 3620	Art 3 Sec 8	464
staff	TIAS 3620	Art 4 Sec 5	466
suspension of operations	TIAS 3620	Art 5 Sec 5	469
World Bank			
relations with	TIAS 3620	Art 4 Sec 6	467
World Bank relations with			
loans	TIAS 1503	Art 3 Sec 6	440
Illiteracy			
(see Education)			
IMF			
(see also Special Drawing Rights)			
agencies dealing with	TIAS 1501	Art 5 Sec 1	370
agreement establishing			
explanation of terms	TIAS 1501	Art 30	406
interpretation	TIAS 1501	Art 29	406
Board of Governors	TIAS 1501	Art 12 Sec 2	386
call for exchange transactions	N/L 9	Para. 7	424
capital stock			
subscriptions	TIAS 1501	Art 3 Sec 3	368
capital transfers	TIAS 1501	Art 6 Sec 1-3	379
charges	TIAS 1501	Art 5 Sec 8	375
compulsory withdrawal	TIAS 1501	Art 26 Sec 2	404
conversion rates of foreign currencies			
GATT	TIAS 1700	Art 17	269
cooperation with GATT	TIAS 1700	Art 15	267
credit arrangements	N/L 9	Para. 2	423
creditors			
withdrawal of	N/L 9	Para. 16-17	427
currencies			
members	N/L 9	Para. 2	423
repurchase by members	TIAS 1501 TIAS 1501	Art 5 Sec 7 Schedule B	373 409
scarcity of	TIAS 1501	Art 7 Sec 1-5	379
substituted by			
securities	TIAS 1501	Art 3 Sec 4	368
debts			
amounts of	N/L 9	Annex	429

			Page
IMF--Continued			
evidence of	M/L 9	Para. 8	424
interest on	M/L 9	Para. 9	424
interpretation of decision on	M/L 9	Para. 20	428
rates of exhange	M/L 9	Para. 12	426
renewal	M/L 9	Para. 19	428
repayment of	M/L 9	Para. 11	425
designation			
currency provided for special drawing rights	TIAS 1501	Art 19 Sec 5	397
	TIAS 1501	Schedule F	414
distribution of net income	TIAS 1501	Art 12 Sec 6	389
eligibility to use	TIAS 1501	Art 5 Sec 5	372
emergency provision			
liquidation	TIAS 1501	Art 27 Sec 2	405
emergency provisions			
temporary suspension	TIAS 1501	Art 27 Sec 1	404
Executive Directors			
election of	TIAS 1501	Art 12 Sec 3	386
General Account	TIAS 1501	Art 16 Sec 1-3	392
administration	TIAS 1501	Art 21	399
transactions	TIAS 1501	Art 24 Sec 6	403
guarantees by members	TIAS 1501	Art 13 Sec 3	391
international organizations			
relations with	TIAS 1501	Art 10	385
limitations on	TIAS 1501	Art 5 Sec 2	371
limitations on members	TIAS 1501	Art 5 Sec 3	371
waiver of conditions	TIAS 1501	Art 5 Sec 4	372
liquidation	M/L 9	Para. 18	427
administration of	TIAS 1501	Schedule K	419
location of offices	TIAS 1501	Art 13 Sec 1	391
Managing Director	TIAS 1501	Art 12 Sec 4	388
member banks	TIAS 1501	Art 13 Sec 2	391
membership			
communicating with	TIAS 1501	Art 12 Sec 8	390
open to	TIAS 1501	Art 2 Sec 2	367
original	TIAS 1501	Art 2 Sec 1	367
right to withdrawal	TIAS 1501	Art 26 Sec 1	404
settlement of accounts	TIAS 1501	Art 26 Sec 3	404
voting power	TIAS 1501	Art 12 Sec 5	388
multiple rates of exchange	TIAS 1700	Ad Art 8	301
GATT	TIAS 1700	Ad Art 16	303
nonmember countries			
relations with	TIAS 1501	Art 11 Sec 1-2	385
obligations of members	TIAS 1501	Art 8 Sec 1	381
	TIAS 1501	Art 22	400
consultation	TIAS 1501	Art 8 Sec 6	383
convertibility of balances held	TIAS 1501	Art 8 Sec 4	381
currency practices	TIAS 1501	Art 8 Sec 3	381
furnishing information	TIAS 1501	Art 8 Sec 5	382
payments	TIAS 1501	Art 3 Sec 2	367
organization	TIAS 1501	Art 12 Sec 1	385
par value of currencies			
import duties adjusted for	TIAS 1700	Art 2	250
par values of currencies			
changes in	TIAS 1501	Art 4 Sec 5	370
exchange stability	TIAS 1501	Art 4 Sec 4	370
expression of	TIAS 1501	Art 4 Sec 1	369
gold purchases based on	TIAS 1501	Art 4 Sec 2	369
parity			
foreign exchange dealings based on	TIAS 1501	Art 4 Sec 3	369
privileges and immunities	TIAS 1501	Art 9 Sec 4	383
archives	TIAS 1501	Art 9 Sec 5	384
assets	TIAS 1501	Art 9 Sec 6	384
communications	TIAS 1501	Art 9 Sec 7	384
employees	TIAS 1501	Art 9 Sec 8	384
from taxation	TIAS 1501	Art 9 Sec 9	384
judicial	TIAS 1501	Art 9 Sec 2,3	383
officers	TIAS 1501	Art 9 Sec 8	384
purpose	TIAS 1501	Art 9 Sec 1	383
purpose	TIAS 1501	Art 1	366
quotas	TIAS 1501	Art 3 Sec 1	367
	TIAS 1501	Schedule A	409
change in	TIAS 1501	Art 3 Sec 2,4	367
remuneration on excess	TIAS 1501	Art 5 Sec 9	375
reconstitution	TIAS 1501	Schedule G	416
reports	TIAS 1501	Art 12 Sec 7	390
reserves	TIAS 1501	Art 12 Sec 6	389
securities			
substituted for currency	TIAS 1501	Art 3 Sec 4	368
Special Drawing Account	TIAS 1501	Art 16 Sec 1-3	392
administration	TIAS 1501	Art 21	399
assessments	TIAS 1501	Art 20 Sec 4	399

		Page
IMF--Continued		
charges	TIAS 1501 Art 20 Sec 2-3	398
interest	TIAS 1501 Art 20 Sec 1,3	398
liquidation of	TIAS 1501 Art 25	403
	TIAS 1501 Schedule I	416
Special Drawing Rights	TIAS 1501 Art 15	392
allocation of	TIAS 1501 Art 18 Sec 1-4	394
cancellation	TIAS 1501 Art 18 Sec 1-4	394
emergency provisions	TIAS 1501 Art 17 Sec 1	393
explanation of terms	TIAS 1501 Art 16	392
General Account as a holder	TIAS 1501 Art 17 Sec 2	393
holders	TIAS 1501 Art 17 Sec 3	393
obligations unfulfilled	TIAS 1501 Art 17 Sec 2	393
participants	TIAS 1501 Art 17 Sec 1	393
reconstitution	TIAS 1501 Art 19 Sec 6	397
requirement of need	TIAS 1501 Art 19 Sec 3	396
suspension of transactions in	TIAS 1501 Art 17	393
transactions	TIAS 1501 Art 19 Sec 2	396
use of	TIAS 1501 Art 19 Sec 1	396
staff	TIAS 1501 Art 12 Sec 4	388
suspension of exchange transactions	R/L 9 Para. 10	427
termination of participation	TIAS 1501 Art 24 Sec 1	401
	TIAS 1501 Schedule H	415
charges	TIAS 1501 Art 24 Sec 3	402
General Account transactions	TIAS 1501 Art 24 Sec 6	403
interest	TIAS 1501 Art 24 Sec 3	402
settlement	TIAS 1501 Art 24 Sec 4,5	402
	TIAS 1501 Art 24 Sec 2	402
withdrawal of membership settlement of accounts	TIAS 1501 Schedule J	418
Immigration (foreign)		
U.N. headquarters	TIAS 1899 Annex 2 Sec 5	760
U.S. regulations	TIAS 1899 Sec 11-14	752
Immigration and Nationality Act of 1952	22 CFR Sec 50.40	141
national emergency provisions	18 FR 489	163
Immunities (see Privileges and immunities)		
Import duties (see also Anti-dumping)		
Import licenses (see Import regulations)		
Import regulations		
educational and cultural materials	17 UST 1578	205
Imports (see Educational and cultural exchange)		
Income levels		
Alliance for Progress	DSB 61-463	842
India		
trade with Pakistan	TIAS 1700 Art 24	281
Indochina		
SEATO	TIAS 3170 Pr	871
Industrialization		
Alliance for Progress	DSB 61-463 Title 1	842
Industry (see also Anti-dumping)		
defined	TIAS 9650 Art 4	316
trade protectionism (see GATT)		
Inter-American committees and councils (see OAS)		
Inter-American Council for Education, Science, and Culture	TIAS 2361 Art 99-104	823
Inter-American Development Bank (see IADB)		
Inter-American Investment Corporation		
articles of agreement	IAIC	533
Inter-American system (see OAS) (see Rio Treaty of 1974)		
Inter-American Treaty of Reciprocal Assistance (see also Rio Treaty of 1947)	TIAS 1838	797
Interim agreements (see SALT agreements, offensive arms)		

		Page
International agreements (see Executive-legislative relations) (see individual agreements)		
International Anti-dumping Code (see Anti-dumping)———	TIAS 9650	313
International Atomic Energy Agency		
agreements on safeguards——	TIAS 6839 Art 3	35
International Bank for Reconstruction and Development (see World Bank)		
International Center for Settlement of Investment Disputes———	17 UST 1270 Art 1-27	610
(see also Investment disputes)		
Administrative Council———	17 UST 1270 Art 4-8	611
financing———	17 UST 1270 Art 17	614
jurisdiction———	17 UST 1270 Art 25	616
panels———	17 UST 1270 Art 12-16	613
privileges and immunities—	17 UST 1270 Art 18	614
Secretariat———	17 UST 1270 Art 9-11	612
International Civil Aviation Organization		
information on offenses———	22 UST 1641 Art 11	1062
International Commission for the Northwest Atlantic Fisheries (see also Fisheries)		
International Communication Agency		
Director———	RP 77-2 Sec 2	200
functions transferred-	RP 77-2 Sec 7	201
established———	RP 77-2 Sec 1	200
International Communication, Cultural and Educational Affairs, Advisory Committee on———	RP 77-2 Sec 8	202
International Court of Justice (see World Court)		
International Development Association (see IDA)		
International Education Act of 1966 (see Educational and cultural exchange)		
International Energy Agency		
finances———	TIAS 8278 Art 64	652
Governing Board voting———	TIAS 8278 Art 61-62	650
implementation of International Energy Program———	TIAS 8278	633
organs of agency———	TIAS 8278 Art 49-60	647
relations with other entities———	TIAS 8278 Art 63	652
International Energy Program		
entry into force———	TIAS 8278 Art 67-75	653
International Energy Program, Agreement on———	TIAS 8278	633
International Finance Corporation (see IFC)		
International Fund for Agricultural Development (see IFAD)		
International law (see Arbitration) (see Convention) (see OAS) (see U.N.) (see World Court)		
International Liability for Damage Caused by Space Objects, Convention on———	TIAS 7762	1070
International Monetary Fund (see IMF)		
International organizations (see also respective institutions)		
cooperation among———	TIAS 4607 Art 5 Sec 6	521
IFC———	TIAS 3620 Art 4 Sec 7	467
coordinating with World Bank———	TIAS 1503 Art 5 Sec 8	448
IMF relations with———	TIAS 1501 Art 10	385
outer space———	TIAS 6347 Art 6	1066

Page

International organizations--Continued
TIAS 6347 Art 13 1068
ships on high seas---------- 13 UST 2312 Art 4 1014
International Organizations
ships on high seas---------- 13 UST 2312 Art 7 1014
International Trade Commission
(see Trade)
International Trade
Organization
members of GATT------------ TIAS 1700 Art 29 288
International Wheat Agreement,
1971------------------------ 22 UST 820 329
International Wheat Council
Advisory Sub-Committee on
Market Conditions-------- 22 UST 820 Art 16 339
annual review------------- 22 UST 820 Art 8 335
constitution-------------- 22 UST 820 Art 10 336
cooperation with
intergovernmental
organizations----------- 22 UST 820 Art 20 341
defined------------------- 22 UST 820 Art 2(1)(a) 330
Executive Committee-------- 22 UST 820 Art 15 338
financing of-------------- 22 UST 820 Art 19 340
functions----------------- 22 UST 820 Art 11 336
priviliges and immunities-- 22 UST 820 Art 18 340
sessions------------------ 22 UST 820 Art 13 337
voting-------------------- 22 UST 820 Art 12 337
exporting members------ 22 UST 820 Annex A 343
importing members------ 22 UST 820 Annex B 344
Internationally protected
persons-------------------- TIAS 8413 770
defined------------------ TIAS 8532 Art 1 774
Interventions
OAS Charter--------------- TIAS 2361 Art 18-22 808
Investment disputes
(see also Arbitration)
(see also Convention on the
Settlement of Investment
Disputes)
arbitral awards----------- 17 UST 1270 Art 48-55 621
changes in------------ 17 UST 1270 Art 50-52 622
enforcement of-------- 17 UST 1270 Art 53-55 623
Arbitral Tribunal
constitution---------- 17 UST 1270 Art 37-40 619
proceedings----------- 17 UST 1270 Art 41-47 620
arbitration
request for----------- 17 UST 1270 Art 36 619
arbitrators
changes in------------ 17 UST 1270 Art 56-58 624
conciliation
proceedings----------- 17 UST 1270 Art 32-35 618
request for----------- 17 UST 1270 Art 28 617
Conciliation Commission---- 17 UST 1270 Art 29-31 617
costs--------------------- 17 UST 1270 Art 59-61 625
International Center for
Settlement of------------ 17 UST 1270 Art 1-27 610
place of proceedings------ 17 UST 1270 Art 62-63 625
World Court--------------- 17 UST 1270 Art 64 626
Iran-U.S. relations
claims settlement--------- Declar. 242
hostage release----------- Declar. 237

J

Japan-U.S. relations----------- TIAS 4509 Art 10 876
Japan-U.S. relations----------- TIAS 4509 N/L 874
mutual defense treaty------ TIAS 4509 872
interpretation of----- TIAS 4509 U 876
Security Consultative
Committee---------------- TIAS 4509 N/L 874
U.S. forces---------------- TIAS 4509 Art 6 873
Jurisdiction
(see Courts, jurisdiction)
(see Sovereignty)
Jurists
Inter-American Juridical
Committee---------------- TIAS 2361 Art 107 825

K

Kennedy, John F.
Alliance for Progress------ DSB 61-463 Title 2 Ch 3 846
Korea (Republic of) relations
mutual defense treaty------ TIAS 3097 866
Korea (Republic of)-U.S.
relations
U.S. aid------------------- TIAS 3097 U 867
U.S. forces---------------- TIAS 3097 Art 4 867
Korean War
U.S. national emergency---- 15 FR 9029 795

L

		Page
Labor legislation		
refugees	19 UST 5260 Art 28	187
Land tenure		
Alliance for Progress	DSB 61-463 Title 1	842
Latin America		
OAS efforts	DSB 60-537 IA	837
Latin America		
(see also Alliance for Progress)		
(see also IADB)		
(see also Rio Treaty of 1947)		
arms control	Add Protocol I	48
Arms control	Treaty	47
Additional Protocol I		
understandings	S. Resolution	45
development		
(see Alliance for Progress)		
education		
(see Education)		
nuclear weapons in		
prohibition of	22 UST 754	40
U.S. role	22 UST 760	42
OAS		
(see OAS)		
U.S. relations with		
nuclear weapons	22 UST 754	40
	22 UST 760	42
Latin America Free Trade Association		
(see Common markets)		
LDC		
(see Less developed countries)		
Less developed countries		
trade	TIAS 1700 Ad Art 18	305
quantitative restrictions	TIAS 1700 Art 18	271
Liabilities		
ADB		
membership liability	TIAS 6103 Art 46	578
methods of meeting	TIAS 6103 Art 18	562
Liability limited		
IADB		
Fund for Special Operations	TIAS 4307 Art 4 Sec 5	489
IDA	TIAS 4607 Art 2 Sec 3	517
IFC	TIAS 3620 Art 2 Sec 4	462
Limited liability		
(see Liability limited)		
Liquidation		
IMF	TIAS 1501 Schedule K	419
	R/L 9 Para. 18	427
Loyalty		
(see also Nationality)		
oath of allegiance		
passports	22 CFR Sec 50.20	180
resuming nationality	22 CFR Sec 50.30	181

M

Marks of origin		
misrepresentation by	TIAS 1700 Art 9	259
special duty on	TIAS 1700 Art 9	259
Marriages (abroad)		
alien husbands	22 CFR Sec 51.45-51.50	151
ceremony	22 CFR Sec 52.1-52.3	160
documents	22 CFR Sec 52.4-52.5	161
nationality	22 CFR Sec 51.45-51.50	151
Mediation		
(see also Arbitration)		
(see also Conciliation)		
Middle East		
U.S. relations with	S.C. Res. 67-242	879
	S.C. Res. 73-338	880
1967 War	S.C. Res. 67-242	879
1973 War	S.C. Res. 73-338	880
Middle East-U.S. relations		
early warning system in Sinai	Proposal	881
Migrants		
(see Immigration, foreign)		
(see Refugees)		
Migration and Refugee Assistance Act of 1962		
(see also Refugee relief)		

		Page
Military (foreign)		
international measures-------	59 Stat. 1031 Art 42-51	717
Military (U.S.)		
(see also Mutual defense)		
stationed abroad		
Japan---------------	11 UST 1631 Art 6	677
Korea (Republic of)---	TIAS 3097 Art 6	867
Military aid (U.S.)		
(see also Mutual defense)		
Military bases abroad		
(see Military (U.S.), stationed abroad)		
Most-Favored-Nation Clause		
GATT----------------------	TIAS 1700 Art 9	259
Most-Favored-Nation Treatment--	TIAS 1700 Art 1-2	249
Multilateral organizations (see International organizations)		
Mutual defense		
ANZUS Pact----------------	TIAS 2493	863
NATO----------------------	TIAS 1964 Art 5	857
OAS-----------------------	TIAS 2361 Art 27-28	809
Advisory Committee----	TIAS 2361 Art 63-66	817
regional agreements--------	59 Stat. 1031 Art 52-54	719
SEATO---------------------	TIAS 3170	868
U.N.----------------------	59 Stat. 1031 Art 39-51	716
transitional agreements----------	59 Stat. 1031 Art 106	728
U.S. treaties with		
Japan---------------	TIAS 4509	872
Korea (Republic of)---	TIAS 3097	866
Philippines-----------	TIAS 2529	861

N

National emergency		
(see also Emergencies (international))		
communist threat-----------	15 FR 9029	795
travel controls------------	18 FR 489	163
National security		
(see also National Security Council)		
GATT----------------------	TIAS 1700 Art 21	279
importing educational or cultural materials-------	17 UST 1835 Art 5	207
passport applications------	22 CFR Sec 51.70	155
National Security Council		
Ad Hoc Groups-------------	NSC-2	137
Interdepartmental Groups---	NSC-2	136
Policy Review Committee----	NSC-2	136
reorganization-------------	NSC-2	135
Special Coordination Committee------------	NSC-2	136
Nationalist China		
(see China (Republic of))		
Nationality		
(see also Refugees)		
acts of Congress----------	22 CFR Sec 51.51-51.52	152
births abroad		
registering----------	22 CFR Sec 50.5-50.8	139
Certificate of------------	22 CFR Sec 50.10	140
derivative citizenship----	22 CFR Sec 51.44	151
determining---------------	22 CFR Sec 50.2.-50.4	138
	22 CFR Sec 51.40-51.44	150
evidence of---------------	22 CFR Sec 51.54-51.55	153
expatriation		
certificate of-------	22 CFR Sec 50.41	142
identity		
card of-------------	22 CFR Sec 50.9	140
certificate of-------	22 CFR Sec 50.11	140
loss of-------------------	22 CFR Sec 50.40-50.42	141
	22 CFR Sec 50.50-50.51	142
marriages (women)-----	22 CFR Sec 51.45-51.50	151
right to appeal------	22 CFR Sec 50.52	143
marrying aliens-----------	22 CFR Sec 51.45-51.50	151
naturalization------------	22 CFR Sec 51.44	151
	22 CFR Sec 51.47-51.48	152
oath of allegiance		
passports------------	22 CFR Sec 50.20	140
resuming nationality--	22 CFR Sec 50.30	141
renunciation of-----------	22 CFR Sec 50.50	142
oath of-------------	22 CFR Sec 50.50	142
repatriation--------------	22 CFR Sec 50.30	141
	22 CFR Sec 51.53	153
resumption of-------------	22 CFR Sec 50.30	141
retention of--------------	22 CFR Sec 50.20	140
ships on high seas---------	13 UST 2312 Art 5-6	1014
treaties------------------	22 CFR Sec 51.51-51.52	152
Nationals (U.S.)		
(see also Citizens)		

		Page
Nationals (U.S.)--Continued		
defined	22 CFR Sec 51.1	143
NATO	TIAS 1964	856
council	TIAS 1964 Art 9	858
economic cooperation among members	TIAS 1964 Art 2	856
mutual defense	TIAS 1964 Art 5	857
North Atlantic Treaty of 1949	TIAS 1964	856
scope	TIAS 1964 Art 6	857
Spain		
admission	Protocol	860
submarine-launched ballistic missiles	TIAS 7504 2b 8	86
U.S. relations with	TIAS 1964 Art 1	856
	TIAS 1964 Art 5	857
	TIAS 1964 Art 12	858
withdrawal from	TIAS 1964 Art 13	859
Naturalization (see Nationality)		
Navigation		
continental shelf exploited	15 UST 471 Art 5	1031
Middle East	S.C. Res. 67-242	879
New Zealand		
ANZUS Pact	TIAS 2493	863
Nicaragua		
boundary dispute with Honduras	TIAS 1838 B	803
Non-Proliferation of Nuclear Weapons Treaty (see Nuclear weapons, Non-Proliferation Treaty)		
Non-Self-Governing Territories (see U.N.)		
Nondiscrimination		
trade restrictions	TIAS 1700 Art 20	278
administration of	TIAS 1700 Art 13-14	264
North Atlantic Treaty Organization (see NATO)		
NRC		
atomic energy		
export and import regulations	10 CFR Sec 110	658
Nuclear Non-Proliferation Act of 1978		
procedures implementing	43 FR 25326	692
Nuclear proliferation		
agency procedures	43 FR 25326	692
Nuclear Test Ban Treaty of 1963	14 UST 1313	31
Nuclear war		
reducing risk of		
communications	22 UST 1590 Art 2-4	61
	22 UST 1590 Art 6	62
	TIAS 7654 Art 3	93
consultations	22 UST 1590 Art 7	62
technology	22 UST 1590 Art 1	61
Nuclear weapons		
Latin America	22 UST 754	40
	22 UST 760	42
Non-Proliferation Treaty	TIAS 6839	34
conferences on	TIAS 6839 Art 8	37
	TIAS 6839 Art 10	38
future treaties	TIAS 6839 Art 6-7	37
International Atomic Energy Agency	TIAS 6839 Art 3	35
manufacture of weapons	TIAS 6839 Art 1-2	35
peaceful nuclear activities	TIAS 6839 Art 3-5	35
transfer of weapons	TIAS 6839 Art 1-2	35
withdrawal from	TIAS 6839 Art 10	38
outer space	TIAS 6347 Art 4	1065
seabeds	TIAS 7337	63

O

OAS		
Advisory Defense Committee	TIAS 2361 Art 63-66	817
Alliance for Progress	DSB 61-463	842
amendments to Charter	TIAS 2361 Art 147	831
interpretation of	TIAS 6847 B	835
budgets	TIAS 2361 Art 52-53	815
common market	TIAS 2361 Art 40	812
contributions to	TIAS 2361 Art 53	815
Council		
replaced	TIAS 6847 Art 24	834
councils	TIAS 2361 Art 68-104	818
crimes against foreign officials		
convention	TIAS 8413	770

Page

OAS--Continued
cultural standards-------- TIAS 2361 Art 45-50 813
development of members----- TIAS 2361 Art 16 807
disputes
peaceful settlement of TIAS 2361 Art 23-26 808
economic development------- TIAS 2361 Art 29-42 809
goals of----------- TIAS 2361 Art 31 809
educational and cultural
exchange---------------- TIAS 2361 Art 99-104 823
educational standards------ TIAS 2361 Art 45-50 813
employment by------------ TIAS 2361 Art 143 831
General Assembly----------- TIAS 2361 Art 52-58 815
TIAS 2361 Art 91 821
TIAS 2361 Art 131-134 829
TIAS 6847 Art 24 834
General Secretariat------- TIAS 2361 Art 113-127 826
human rights------------ TIAS 2361 Art 43-44 812
Inter-American Commission
on Human Rights---------- TIAS 2361 Art 112 826
TIAS 2361 Art 150 832
Inter-American Committee on
Peaceful Settlement------ TIAS 2361 Art 83-90 820
Inter-American Committee on
the Alliance for Progress TIAS 2361 Art 149 831
Inter-American Conference
replaced------------- TIAS 2361 Art 24 808
Inter-American Council for
Education, Science, and
Culture------------------ TIAS 2361 Art 99-104 823
Inter-American Economic and
Social Council---------- TIAS 2361 Art 93-98 822
DSB 60-537 IV 840
DSB 61-463 Title 2 Ch 3 848
Alliance for Progress- TIAS 2361 Art 149 831
trade---------------- DSB 61-463 Title 4 Ch 2 853
Inter-American Juridical
Committee--------------- TIAS 2361 Art 105-111 825
intervention by foreign
governments------------ TIAS 2361 Art 18-22 808
Meeting of Consultation of
Ministers of Foreign
Affairs----------------- TIAS 2361 Art 59-67 816
meetings of-------------- TIAS 2361 Art 138 830
membership--------------- TIAS 2361 Art 4-8 806
rights and duties---- TIAS 2361 Art 9-22 807
mutual defense----------- TIAS 2361 Art 27-28 809
TIAS 2361 Art 63-66 817
organization------------- TIAS 2361 Art 51-136 [illegible]
Pan American Union
(see Pan American
Union)
Permanent Council---------- TIAS 2361 Art 55-56 816
TIAS 2361 Art 78-92 819
TIAS 6847 Art 24 834
settlement of disputes TIAS 2361 Art 82-90 820
postal service for-------- TIAS 2361 Art 141 830
principles--------------- TIAS 2361 Art 3 805
privileges and immunities-- TIAS 2361 Art 139-141 830
Protocol of Buenos Aires--- TIAS 6847 833
purposes----------------- TIAS 2361 Art 1-2 805
recognition policy
nature of------------ TIAS 2361 Art 12 807
reservations to Charter
Guatemala----------- TIAS 2361 R 832
Peru---------------- TIAS 2361 R 832
U.S.---------------- TIAS 2361 R 832
science and technology---- TIAS 2361 Art 36 811
TIAS 2361 Art 49 814
scientific standards------ TIAS 2361 Art 45-50 813
Secretary General--------- TIAS 2361 Art 114-116 826
TIAS 2361 Art 119-125 827
self-defense right-------- TIAS 2361 Art 12 807
TIAS 2361 Art 18 807
social development-------- TIAS 2361 Art 29-37 809
Specialized Conferences--- TIAS 2361 Art 72 818
TIAS 2361 Art 128-129 828
Specialized Organizations-- TIAS 2361 Art 130-136 829
terrorism
convention against---- TIAS 8413 770
trade--------------------- TIAS 2361 Art 37-38 811
U.N. relations with------- TIAS 2361 Art 1-2 805
TIAS 2361 Art 23 808
TIAS 2361 Art 91 821
TIAS 2361 Art 137 830

Oaths of allegiance
(see Loyalty)
Oceanography
(see Sea Law)
Oil

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Page

Oil--Continued
(see also International Energy Agency)
(see also International Energy Program)
activation of allocation--- TIAS 8278 Art 12-22 637
allocation of------------- TIAS 8278 Art 6-11 635
companies
consultation with participating countries----------- TIAS 8278 Art 37-40 644
information on-------- TIAS 8278 Art 27 642
demand restraint---------- TIAS 8278 Art 5 635
emergency measures
deactivation---------- TIAS 8278 Art 24 641
information on-------- TIAS 8278 Art 32 643
emergency reserve commitment-------------- TIAS 8278 Art 2, 3 634
emergency reserves-------- TIAS 8278 Annex Art 1-3 655
stock definitions----- TIAS 8278 Annex Art 1 655
emergency self-sufficiency- TIAS 8278 Art 2 634
international cooperation
long term------------ TIAS 8278 Art 41-43 645
producing countries with consuming countries---------- TIAS 8278 Art 44-48 646
international market
information on-------- TIAS 8278 Art 25 641
reduction in consumption--- TIAS 8278 Art 8-21 636
Standing Group on Emergency Questions-------------- TIAS 8278 Art 4-6 634
Standing Group on Long Term Cooperation------------ TIAS 8278 Art 42-43 645
Standing Group on the Oil Market
reports to Management Committee---------- TIAS 8278 Art 29-31 642
TIAS 8278 Art 34-36 644

Oil companies
(see Oil, companies)

Operation Pan America
domestic resources-------- DSB 60-537 IE 839
education----------------- DSB 60-537 IC 838
health care--------------- DSB 60-537 ID 838
housing------------------- DSB 60-537 IB 837
IADB---------------------- DSB 60-537 II 839
land tenure--------------- DSB 60-537 IA 837
principle of self-help----- DSB 60-537 836

OPIC
trade functions------------ EP 3 Sec 4 225

Organization of American States
(see OAS)

Outer Space
access to facilities in---- TIAS 6347 Art 12 1065
astronaut assistance------- TIAS 6347 Art 5 1065
communications------- 19 UST 7570 Art 1 1070
rescue--------------- 19 UST 7570 Art 2-3 1070
return--------------- 19 UST 7570 Art 4 1071
contaminating Earth-------- TIAS 6347 Art 9 1066
international organizations TIAS 6347 Art 6 1066
TIAS 6347 Art 13 1068
launching
observations of------ TIAS 6347 Art 10 1065
liability for damage------- TIAS 6347 Art 7 1066
apportionment--------- TIAS 7762 Art 5 1075
Claims Commission----- TIAS 7762 Art 14-20 1073
compensation---------- TIAS 7762 Art 13-14 1077
conference on--------- TIAS 7762 Art 26 1081
diplomatic relations-- TIAS 7762 Art 9 1076
environmental dangers- TIAS 7762 Art 21 1079
exemptions------------ TIAS 7762 Art 7 1076
exhaustion of remedies TIAS 7762 Art 11 1077
indemnification------- TIAS 7762 Art 5 1075
international organizations------ TIAS 7762 Art 22 1079
joint and several----- TIAS 7762 Art 4-5 1075
local courts---------- TIAS 7762 Art 11 1077
negligence------------ TIAS 7762 Art 3 1075
TIAS 7762 Art 6 1076
statue of limitations- TIAS 7762 Art 10 1077
strict liability------ TIAS 7762 Art 6 1076
nuclear weapons------------ TIAS 6347 Art 4 1065
property ownership--------- TIAS 6347 Art 8 1066
safety precautions--------- TIAS 6347 Art 9 1066
sovereignty---------------- TIAS 6347 Art 1-2 1065
spacecraft
return--------------- TIAS 6347 Art 5 1065
U.N. role------------------ TIAS 6347 Art 11 1065
TIAS 6347 Art 3 1065

		Page
Outer Space--Continued		
	18 UST 7570 Art 1	1070
	18 UST 7570 Art 5	1071
Outer Space, Treaty on	TIAS 6347	1066
P		
Pacific Salmon Commission	Treaty Doc. 99-2	1035
Pakistan		
trade with India	TIAS 1700 Art 24	281
Pan American Union		
(see also OAS)		
Rio Treaty of 1947	TIAS 1838 Art 12-13	800
substitution of terms	TIAS 6847 Art 24	834
Panama		
OAS Charter		
interpretation of	TIAS 6847 U	835
Panama Canal treaties	Pan Can	883
amendments, understandings, reservations	Pan Can	1080
defense of canal	Pan Can Art 4	887
environment	Pan Can Art 6	888
flags	Pan Can Art 7	888
implementing documents	Pan Can	900
law enforcement	Pan Can Art 9	889
neutrality treaty	Pan Can	901
non-intervention	Pan Can Art 5	888
operation of canal	Pan Can Art 3	886
Panama Canal Commission	Pan Can Art 10	891
privileges and immunities	Pan Can Art 8	889
property transfer	Pan Can Art 13	895
ratification	Pan Can Art 2	884
resolutions of ratification	Pan Can	997
sea-level canal	Pan Can Art 12	895
settlement of disputes	Pan Can Art 14	897
Par values of currencies		
(see also Price control)		
changes in		
IMF	TIAS 1501 Art 4 Sec 5	370
exchange stability	TIAS 1501 Art 4 Sec 4	370
expression of		
IMF	TIAS 1501 Art 4 Sec 1	369
gold purchases based on parity	TIAS 1501 Schedule B	409
Passport Office		
(see Passports)		
Passports		
agents		
registering births abroad	22 CFR Sec 50.6	139
amendment of	22 CFR Sec 51.32	149
appeals	22 CFR Sec 51.80-51.105	158
hearings	22 CFR Sec 51.81-51.88	158
application for	22 CFR Sec 51.20-51.33	146
evidence	22 CFR Sec 51.55	153
incompetents	22 CFR Sec 51.26	148
minors	22 CFR Sec 51.27	148
nationality determined	22 CFR Sec 50.4	139
	22 CFR Sec 51.40-51.44	150
applications for		
nationality determined	22 CFR Sec 50.2	138
Board of Appellate Review		
attorneys before	22 CFR Sec 51.84	159
cancellation of	22 CFR Sec 51.8	145
changes in		
unauthorized	22 CFR Sec 51.6	145
defined	22 CFR Sec 50.1	138
	22 CFR Sec 51.1	143
denied	22 CFR Sec 51.75	157
reasons for	22 CFR Sec 51.70	155
diplomatic	22 CFR Sec 51.3	144
execution of application for	22 CFR Sec 51.21	146
fees	22 CFR Sec 51.60-51.66	153
exemption from	22 CFR Sec 51.63	154
payment of	22 CFR Sec 51.60	153
refunds	22 CFR Sec 51.64	155
identity	22 CFR Sec 51.28	149
witnesses	22 CFR Sec 51.30-51.31	149
issued to nationals	22 CFR Sec 51.2	144
names changed	22 CFR Sec 51.24	147
national emergency	18 FR 409	163
period of validity	22 CFR Sec 51.8	154
persons included	22 CFR Sec 51.23	147
photographs required	22 CFR Sec 51.25	147
punishable offenses	22 CFR Sec 53.1	161
refugees	19 UST 6260 Para. 1-16	194
	19 UST 6260 Para. 10	195
release of information	22 CFR Sec 51.33	149
replacement of	22 CFR Sec 51.65	155

		Page
Passports--Continued		
requirement of------------	22 CFR Sec 53.1	161
exceptions------------	22 CFR Sec 53.2	161
restricted countries------	22 CFR Sec 51.72-51.73	157
revocation of------------	22 CFR Sec 51.76	158
reasons for----------	22 CFR Sec 51.71	156
status of Government property----------------	22 CFR Sec 51.9	165
types of------------------	22 CFR Sec 51.3	164
use of--------------------	22 CFR Sec 53.3-53.4	162
verification--------------	22 CFR Sec 51.7	165
Peace Corps		
(see also Foreign Service)		
Permanent Court of Arbitration World Court-----------------	59 Stat. 1055 Art 4-5	732
Peru		
reservation to OAS Charter-	TIAS 2361 R	832
Petroleum		
(see Oil)		
Philippines-U.S. relations		
mutual defense treaty------	TIAS 2529	861
Piracy		
defined-------------------	13 UST 2312 Art 15	1016
international territory----	13 UST 2312 Art 14-21	1016
PL 480		
(see Agricultural commodity sales)		
(see Agriculture, Secretary of)		
Political tests		
(see Loyalty)		
President		
national emergency powers		
travel control--------	18 FR 489	163
SALT agreements------------	PL 92-448 Sec 2,4	67
Price Control		
(see also Anti-dumping)		
imported products---------	TIAS 1700 Art 3	252
Price stability		
(see also Financial institutions)		
Alliance for Progress------	DSB 61-463 Title 1	842
Price stabilization		
trade restrictions--------	TIAS 1700 Art 20	278
Privileges and immunities		
ADB----------------------	TIAS 6103 Art 48-58	574
IADB		
(see also IADB)-------	TIAS 4397 Art 11	506
IDA		
(see also IDA)--------	TIAS 4607 Art 9	530
IFAD---------------------	IFAD Art 10	16
IFC		
(see also IFC)-------	TIAS 3620 Art 6	470
IMF		
(see also IMF)-------	TIAS 1501 Art 9	383
International Wheat Council	22 UST 820 Art 10	348
judicial process-----------	TIAS 3620 Art 6 Sec 3	470
OAS----------------------	TIAS 2361 Art 139-141	830
refugees-----------------	19 UST 6260 Art 12-16	184
sea law		
right of innocent passage------------	15 UST 1606 Art 14-23	1008
U.N.---------------------	TIAS 1899 Sec 26	757
communications--------	21 UST 1418 Sec 9-10	763
juridical-------------	21 UST 1418 Sec 1	761
officials-------------	21 UST 1418 Sec 17-21	764
property-------------	21 UST 1418 Sec 2-8	761
representatives of members------------	21 UST 1418 Sec 11-16	763
U.S. reservations----	21 UST 1418 R	769
waiver---------------	21 UST 1418 Sec 14	764
	21 UST 1418 Sec 20	765
U.N. materials------------	17 UST 1578 Art 15	218
U.N. 729-----------------	59 Stat. 1031 Art 105	728
warships-----------------	13 UST 2312 Art 8	1014
World Bank---------------	TIAS 1503 Art 7	452
World Court judges---------	59 Stat. 1055 Art 19	735
Privilliges and immunities		
U.N.		
waiver---------------	21 UST 1418 Sec 23	766
Prohibition of Nuclear Weapons in Latin America, Treaty for the		
Protocol II---------------	22 UST 754	40
Property		
(see also Claims)		
(see also Gifts (foreign))		
Protocol of Buenos Aires		
OAS Charter amended--------	TIAS 6847	833

		Page
Public opinion		
(see USIA)		
Punta del Este, Charter of		
(see also Alliance for		
Progress)	DSB 61-463	882
Q		
Quotas		
administration of		
GATT	TIAS 1700 Art 13-14	264
R		
Reciprocal assistance		
(see Mutual defense)		
Recognition (diplomatic)		
countries launching space		
objects	TIAS 7762 Art 9	1076
OAS standards	TIAS 2361 Art 12	807
Refugee relief	19 UST 6260 Art 23	187
conference on	19 UST 6260 Art 39	191
Convention Relating to the		
Status of Refugees	19 UST 6260	179
disputes settled	19 UST 6223 Art 4	175
	19 UST 6260 Art 4	182
international		
administration	19 UST 6260 Art 25	188
nondiscrimination	19 UST 6260 Art 3	182
nonresident aliens	19 UST 6223 B	178
property rights	19 UST 6260 Art 13	184
Protocol Relating to the		
Status of Refugees	19 UST 6223	176
Social Security Act		
conflict	19 UST 6223 B	178
taxation of refugees	19 UST 6223 B	178
United Nations	19 UST 6223 Art 2	175
Refugees		
access to courts	19 UST 6260 Art 16	185
artistic rights	19 UST 6260 Art 14	184
assets		
transfer of	19 UST 6260 Art 30	189
association rights	19 UST 6260 Art 15	185
collective bargaining	19 UST 6260 Art 24	187
criminals	19 UST 6260 Art 1	180
defined	19 UST 6260 Art 1	180
duties	19 UST 6260 Art 2	182
education		
public	19 UST 6260 Art 22	186
emergency governmental		
powers	19 UST 6260 Art 8-9	182
employment	19 UST 6260 Art 17-18	185
professional	19 UST 6260 Art 19	186
expulsion of	19 UST 6260 Art 32-33	190
extension of convention on	19 UST 6260 Art 40	192
housing	19 UST 6260 Art 21	186
illegal entry	19 UST 6260 Art 31	189
labor legislation	19 UST 6260 Art 24	187
marriage rights	19 UST 6260 Art 12	184
Middle East	S.C. Res. 67-242	879
movement within a country	19 UST 6260 Art 26	188
naturalization of	19 UST 6260 Art 34	190
property rights	19 UST 6260 Art 14	184
rationing for	19 UST 6260 Art 20	186
reciprocity	19 UST 6260 Art 7	182
religious freedom	19 UST 6260 Art 4	182
rights	19 UST 6260 Art 3-8	182
seamen	19 UST 6260 Art 11	184
social security	19 UST 6260 Art 24	187
taxation of	19 UST 6260 Art 29	189
travel documents for	19 UST 6260 Art 27-28	188
	19 UST 6260 Para. 1-16	194
World War II migrations	19 UST 6260 Art 10	183
Religious freedom		
refugees	19 UST 6260 Art 4	182
Repatriation		
(see Nationality)		
Reports (international)		
ADB	TIAS 6103 Art 39	571
IDA	TIAS 4607 Art 6 Sec 11	525
IFC	TIAS 3620 Art 4 Sec 11	467
IMF	TIAS 1501 Art 12 Sec 7	390
World Bank organization	TIAS 1502 Art 5 Sec 13	449
Research		
(see Science and		
technology)		
Reservations to treaties (U.S.)		
(see Treaty reservations,		
U.S.)		

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		Page
Rio Treaty of 1947		
aggression		
defined————	TIAS 1838 Art 9	800
binding force————	TIAS 1838 Art 20	801
Organ of Consultation———	TIAS 1838 Art 8-9	800
emergency meetings———	TIAS 1838 Art 3	798
	TIAS 1838 Art 6	799
reservation to		
Honduras————	TIAS 1838 R	803
sanctions (nonmilitary)———	TIAS 1838 Art 8	800
U.S. relations with———	TIAS 1838 Art 1-3	798
	TIAS 1838 Art 10	800
	TIAS 1838 Art 15	801
	TIAS 1838 Art 24	802
voting procedures———	TIAS 1838 Art 16-19	801
Romania-U.S. relations		
trade		
most-favored-nation		
treatment————	Proc. 4369	228
S		
SALT agreements		
ABM		
defense of ICBM silo		
launchers————	23 UST 3435 Art 3	70
defense of national		
capital————	23 UST 3435 Art 3	70
	TIAS 7504 1a(C) U	80
defined————	23 UST 3435 Art 2	69
deployment limited———	27 UST 1645 Art 1	72
deployment of————	23 UST 3435 Art 3-5	70
development————	23 UST 3435 Art 4	70
dismantling————	23 UST 3435 Art 8	71
	27 UST 1645 Art 2	73
IBM Silo launchers———	TIAS 7504 1a(C) U	80
location of defenses—	TIAS 7504 1b(B) U	82
mobile systems————	TIAS 7504 1b(D) U	83
permitted————	23 UST 3435 Art 3	70
protocol————	27 UST 1645	72
replacement————	23 UST 3435 Art 7	71
Standing Consultative		
Commission————	23 UST 3435 Art 13	72
	TIAS 7504 1b(E) U	83
	TIAS 7545	88
	TIAS 7637	90
statements and		
interpretations———	TIAS 7504 1 U	78
test ranges————	TIAS 7504 1b(C) U	82
transfer to other		
nations————	23 UST 3435 Art 9	71
	TIAS 7504 1a(G) U	81
	TIAS 7504 2a(B) U	85
verification————	23 UST 3435 Art 12	335
withdrawal from treaty	TIAS 7504 2a(A) U	84
offensive arms		
construction————	TIAS 7504 Art 1	76
conversion————	TIAS 7504 Art 2	76
mobility————	TIAS 7504 2a(B) U	84
negotiations————	23 UST 3435 Art 2	69
	TIAS 7504 Art 11	77
replacement————	TIAS 7504 Art 4	77
	TIAS 7504 1a(J) U	81
Standing Consultative		
Commission————	TIAS 7504 Art 6	77
	TIAS 7545	88
	TIAS 7637	90
submarine-launched		
ballistic missiles		
(SLBMs)————	TIAS 7504 Art 3	76
	TIAS 7504 PR	78
	TIAS 7504 1a(K) U	81
	TIAS 7504 2b U	86
verification————	TIAS 7504 Art 5	77
President's role————	PL 92-448 Sec 2,4	67
reduction in arms————	PL 92-448 Sec 4	68
standstill before entry		
into force————	TIAS 7504 1b(F) U	83
unilateral interpretations-	TIAS 7504 2 U	84
Sanctions (nonmilitary)		
breaking diplomatic		
relations————	TIAS 1838 Art 8	800
economic		
Rio Treaty of 1947———	TIAS 1838 Art 8	800
Scarce currencies————	TIAS 1501 Art 7 Sec 1,3	379
administration of		
restrictions————	TIAS 1501 Art 7 Sec 4	380
international agreements on	TIAS 1501 Art 7 Sec 5	381
measures to replenish———	TIAS 1501 Art 7 Sec 1	379

Page

- Scholarships
  - (see Educational and cultural exchange)
- Science and technology
  - (see also Technical assistance)
  - continental shelf 15 UST 471 Art 5 1031
  - fisheries 17 UST 138 Art 7 1024
    - 17 UST 138 Art 10 1025
  - Inter- American Council for Education, Science and Culture TIAS 2361 Art 99-104 823
  - OAS Charter TIAS 2361 Art 36 811
    - TIAS 2361 Art 45-50 813
- Scientific exchange
  - (see Educational and cultural exchange)
- SDRs
  - (see Special Drawing Rights)
- Sea law
  - assistance 13 UST 2312 Art 12 1015
  - astronaut assistance 18 UST 7570 Art 3-4 1071
  - boarding a foreign merchant ship 13 UST 2312 Art 22 1017
  - cables and pipelines 13 UST 2312 Art 26-29 1019
    - 15 UST 471 Art 4 1031
  - collisions 13 UST 2312 Art 11 1015
  - contiguous zone
    - hot pursuit 13 UST 2312 Art 23 1017
    - twelve-mile limit 15 UST 1606 Art 24 1010
  - continental shelf
    - boundaries delimited 15 UST 471 Art 6 1032
    - defined 15 UST 471 Art 1 1030
    - exploration and exploitation of 15 UST 471 Art 5 1031
    - natural resources 15 UST 471 Art 2 1030
    - sovereignty over 15 UST 471 Art 3 1030
      - 15 UST 471 Art 2 1030
    - tunneling 15 UST 471 Art 7 1032
  - definitions 15 UST 1606 Art 3-11 1005
    - bays 15 UST 1606 Art 7 1006
    - internal waters 15 UST 1606 Art 5 1006
    - islands 15 UST 1606 Art 10 1007
    - low tide elevation 15 UST 1606 Art 11 1007
    - outer limit of territorial sea 15 UST 1606 Art 6 1006
    - roadsteads 15 UST 1606 Art 9 1007
  - disciplinary proceedings 13 UST 2312 Art 11 1015
  - fishing vessels
    - right of innocent passage 15 UST 1606 Art 14 1008
  - high seas
    - defined 13 UST 2312 Art 1 1013
    - freedoms 13 UST 2312 Art 2 1013
  - highjackings 13 UST 2312 Art 14-21 1016
  - hot pursuit 13 UST 2312 Art 23 1017
  - landlocked nations 13 UST 2312 Art 3 1013
  - nuclear weapons TIAS 7337 63
  - oil pollution 13 UST 2312 Art 24-25 1018
  - overland transit
    - tunneling 13 UST 2312 Art 3 1013
  - piracy 13 UST 2312 Art 14-21 1016
  - ports
    - treatment 13 UST 2312 Art 3 1013
  - rescue 13 UST 2312 Art 12 1015
  - right of innocent passage
    - charges levied 15 UST 1606 Art 18 1009
    - civil jurisdiction 15 UST 1606 Art 20 1010
    - criminal jurisdiction 15 UST 1606 Art 19 1009
    - dangers to navigation 15 UST 1606 Art 15 1008
    - defined 15 UST 1606 Art 14 1008
    - government merchant ships 15 UST 1606 Art 21-22 1010
    - merchant ships 15 UST 1606 Art 18-20 1009
    - national security 15 UST 1606 Art 16 1008
    - warships 15 UST 1606 Art 23 1010
  - safety measures 13 UST 2312 Art 10 1015
  - scientific research 15 UST 471 Art 5 1031
  - ships
    - international organizations 13 UST 2312 Art 7 1014
    - nationality 13 UST 2312 Art 4-7 1014
  - slaves 13 UST 2312 Art 13 1015
  - straight baselines 15 UST 1606 Art 3-4 1005
  - submarines
    - right of innocent passage 15 UST 1606 Art 14 1008
  - territorial sea delimited 15 UST 1606 Art 3-13 1005
  - territorial seas 15 UST 471 Art 1 1030

		Page
Sea law--Continued		
hot pursuits----------	13 UST 2312 Art 23	1017
seabed installations--	15 UST 471 Art 5	1031
U.N. conference on--------	17 UST 138 R	1029
warships		
defined---------------	13 UST 2312 Art 8	1014
immunities------------	13 UST 2312 Art 8	1014
Seabed Arms Control Treaty		
(see also Arms control)----	TIAS 7337	63
withdrawal from-----------	TIAS 7337 Art 8	65
SEATO		
armed attack upon----------	TIAS 3170 Art 4	869
consultations--------------	TIAS 3170 Art 4	869
council of-----------------	TIAS 3170 Art 5	869
economic cooperation-------	TIAS 3170 Art 3	869
protocol to----------------	TIAS 3170 Pr	871
U.N. relations with--------	TIAS 3170 Art 5	869
	TIAS 3170 Art 1	871
U.S. interpretation of treaty------------------	TIAS 3170 Art U	871
Security		
(see Mutual Defense)		
(see U.N.)		
Security Treaty (U.S. and Japan)-----------------------	TIAS 4509 Art 9	874
Sinai		
early warning system-------	Proposal	881
SLBMs		
(see SALT agreements, offensive arms)		
Social development		
(see Alliance for Progress)		
(see Human rights)		
(see OAS)		
(see U.N.)		
Social security (international refugees)------------------	19 UST 6260 Art 24	187
Social Security (U.S.)		
treaty conflicts-----------	19 UST 6223 R	178
Southeast Asia Treaty Organization		
(see SEATO)		
Sovereignty		
(see also Courts, jurisdiction)		
(see also Sea law)		
defined--------------------	15 UST 1606 Art 1-2	1005
outer space----------------	TIAS 6347 Art 1-2	1065
ships on high seas---------	13 UST 2312 Art 5-9	1014
Soviet Union		
Nuclear Test Ban Treaty----	14 UST 1313	31
nuclear weapons		
Non-Proliferation Treaty-------------	TIAS 6839	34
SALT agreements------------	PL 92-448	67
Space		
(see Outer space)		
Spain		
admission to NATO----------	Protocol	860
Spain-U.S. relations		
U.S. territory-------------	22 CFR Sec 51.51	152
Special Drawing Account--------	TIAS 1501 Art 16 Sec 1-3	392
administration-------------	TIAS 1501 Art 21	399
assessments----------------	TIAS 1501 Art 20 Sec 4	399
charges--------------------	TIAS 1501 Art 20 Sec 2-3	398
interest-------------------	TIAS 1501 Art 20 Sec 1,3	398
liquidation of-------------	TIAS 1501 Art 25	403
	TIAS 1501 Schedule I	416
Special Drawing Rights		
(see also IMF)-------------	TIAS 1501 Art 15	392
allocation of--------------	TIAS 1501 Art 18 Sec 1-4	394
cancellation---------------	TIAS 1501 Art 18 Sec 1-4	394
emergency provisions-------	TIAS 1501 Art 17 Sec 1	393
explanation of terms-------	TIAS 1501 Art 16	392
General Account as a holder	TIAS 1501 Art 17 Sec 2	393
holders--------------------	TIAS 1501 Art 17 Sec 3	393
obligations unfulfilled----	TIAS 1501 Art 17 Sec 2	393
participants---------------	TIAS 1501 Art 17 Sec 1	393
providing currency---------	TIAS 1501 Art 19 Sec 4-5	397
reconstitution-------------	TIAS 1501 Art 19 Sec 6	398
requirement of need--------	TIAS 1501 Art 19 Sec 3	396
suspension of transactions in---------------------	TIAS 1501 Art 17	393
transactions---------------	TIAS 1501 Art 19 Sec 2	396
use of---------------------	TIAS 1501 Art 19 Sec 1	396
Spot exchange transactions for parity purposes---------------	TIAS 1501 Art 4 Sec 3	369
Standing Consultative Commission (SCC)		
(see SALT agreements)		

		Page
State, Department of		
(see also Consular affairs)		
(see also Foreign Service)		
(see also State, Secretary of)		
(see also Treaty-making procedure)		
AID		
(see AID)		
Assistant Legal Advisor for Treaty Affairs	Cir 175 Sec 750	129
Consular Affairs, Assistant Secretary of	22 CFR Sec 51.89	160
Foreign Service		
(see Foreign Service)		
refugees		
(see Refugee relief)		
treaties	Cir 175	109
State, Secretary of		
(see also Foreign Service)		
(see also State, Department of)		
educational and cultural exchange	RP 53-88 Sec 2	199
expulsion of U.S. representatives	TIAS 1899 Sec 13	753
	21 UST 1418 R	769
passport control		
determining restricted countries	22 CFR Sec 51.72	157
trade responsibilities	RP 3 Sec 7	226
Stock in financial institutions		
(see Capital stock)		
Strategic Arms Limitation Talks		
(see SALT agreements)		
Submarine-launched ballistic missiles		
(see SALT agreements, offensive arms)		
Subscriptions in financial institutions		
(see Capital stock)		
Subsidies (governmental)		
permitted by GATT	TIAS 1700 Art 3	252
trade	TIAS 1700 Art 16	268
exports	TIAS 1700 Art 16	268
trade restrictions	TIAS 1700 Ad Art 16	303

T

Tarrif Commission		
(see International Trade Commission)		
Taxation (U.S.)		
(see also Social Security)		
IFC		
privileges and immunities	TIAS 3620 Art 6 Sec 9	471
refugees	19 UST 6260 Art 29	189
Taxation		
internal		
imported products	TIAS 1700 Art 3	252
Technical assistance		
Alliance for Progress	DSB 61-463 Title 2 Ch 3	847
IADB	TIAS 4387 Art 6 Sec 1	494
	TIAS 4387 Art 6 Sec 3	494
IADB agreements on	TIAS 4387 Art 6 Sec 2	494
Latin America	DSB 60-537 III	839
non-self governing territories	59 Stat. 1031 Art 73	723
SEATO	TIAS 3170 Art 3	869
Territorial Sea and the Contiguous Zone, Convention on the	15 UST 1606	1005
Territorial seas		
(see Sea law)		
Terrorism		
against foreign officials		
OAS convention	TIAS 8413	770
prevention and punishment of	TIAS 8413	770
Tort claims		
(see Claims)		
Trade		
(see also Common markets)		
(see also Exports)		
(see also GATT)		
(see also Imports)		
(see also		

		Page
Trade--Continued		
Most-Favored-Nation		
Treatment)		
administration of	RP 3	223
Alliance for Progress	DSB 61-463 Title 4	852
barriers		
OAS Charter	TIAS 2361 Art 37	811
China (People's Republic		
of)		
agreement with	Proc. 4697	231
Commerce, Department of	RP 3 Sec 2	224
concessions		
OAS Charter	TIAS 2361 Art 38	811
disposal of surpluses		
Alliance for Progress	DSB 61-463 Title 4 Ch 2	853
drugs		
sea law	15 UST 1606 Art 19	1009
Export-Import Bank	RP 3 Sec 3	225
improvement of		
OAS Charter	TIAS 2361 Art 37	811
international cooperation	DSB 61-463 Title 4 Ch 2	853
OPIC	RP 3 Sec 4	225
U.N.	DSB 61-463 Title 4 Ch 2	853
wheat	22 UST 820	329
Trade Act of 1974		
(see also Trade)		
Trade commission		
(see Trade)		
Trade protection		
importing educational and		
cultural materials	17 UST 1835 R	218
Trade protectionism		
(see also GATT)		
Training		
(see Educational and		
cultural exchange)		
Transportation		
fees		
imported goods	TIAS 1700 Art 3	252
freedom of transit		
GATT signatories	TIAS 1700 Art 5	254
trade charges	TIAS 1700 Ad Art 5	299
Travel abroad		
(see also Passports)		
Travel control		
(see Immigration)		
(see Passports)		
(see Visas)		
Travel documents		
(see Passports)		
(see Visas)		
Treaty interpretations (U.S.)		
mutual defense with Japan	11 UST 1631 U	677
mutual defense with Korea	TIAS 3097 U	867
SEATO	TIAS 3170 U	871
Treaty power		
(see also		
Executive-Legislative		
relations)		
Treaty reservations (U.S.)		
Connally Reservation	TIAS 1598 R	745
Fishing and Conservation of		
the Living Resources of		
the High Seas	17 UST 138 R	1029
Genocide Convention	S. Resolution	789
importing educational and		
cultural materials	17 UST 1835 R	218
Latin America		
prohibition of nuclear		
weapons	S. Resolution	45
OAS Charter	TIAS 2361 R	832
Protocol Relating to the		
Status of Refugees	19 UST 6223 R	178
U.N. privileges and		
immunities	21 UST 1418 R	769
World Court	TIAS 1598 R	745
Treaty-making procedure		
Assistant Legal Adviser for		
Treaty Affairs		
responsibilities	Cir 175 Sec 750	129
Congressional consultation	Cir 175 Sec 721.4	112
exchange of ratifications	Cir 175 Sec 734	123
international agreement		
power	Cir 175 Sec 721	110
international agreements		
concluding	Cir 175 Sec 730	119
Congressional		
transmittal	Cir 175 Sec 724	118
publication	Cir 175 Sec 725	118

BEST COPY AVAILABLE

Page
Treaty-making procedure--Continued
Cir 175 Sec 750.3 130
multilateral agreements---- Cir 175 Sec 740 124
negotiation---------- Cir 175 Sec 740.2 124
ratification---------- Cir 175 Sec 746.2 128
registration---------- Cir 175 Sec 746.3 129
signature------------ Cir 175 Sec 742.2-2 125
negotiation and signature-- Cir 175 Sec 720 109
action required------ Cir 175 Sec 722 112
negotiation conduct--- Cir 175 Sec 723.1 114
officer responsibility Cir 175 Sec 723 114
public disclosure----- Cir 175 Sec 723.2-723.4 115
procedures by State
Department------------- Cir 175 109
selecting procedures------ Cir 175 Sec 721.3 111
Truman Declaration
World Court jurisdiction--- TIAS 1598 746
modification of------- Letter 747
termination of
modification-------- Letter 748
Truman, Harry S.
national emergency powers-- 10 FR 409 163
Trust Territory of the Pacific
Islands
(see U.N.)

U

U.N.
aerodrome------------------- TIAS 1099 Sec 5 751
agressions------------------ 59 Stat. 1031 Art 39-51 716
airport--------------------- TIAS 1899 Annex 2 Sec 2 750
amendments------------------ 59 Stat. 1031 Art 108 730
59 Stat. 1031 Art 109 730
arms control
biological weapons---- TIAS 8062 Art 6 98
seabeds--------------- TIAS 7337 Art 3 64
TIAS 7337 Art 8 65
collective security
(see U.N., mutual
defense)
Commission on International
Commodity Trade------------ BNS 61-463 Title 4 Ch 2 853
crimes
convention on--------- TIAS 8532 774
crimes against
internationally protected
persons------------------- TIAS 8532 774
damage caused by space
objects
Claims Commission----- TIAS 7762 Art 14-20 1073
disputes settled
Security Council role- 59 Stat. 1031 Art 33-38 715
Economic and Social Council 59 Stat. 1031 Art 60 720
59 Stat. 1031 Art 68-72 722
functions------------- 59 Stat. 1031 Art 62-66 721
international
cooperation--------- 59 Stat. 1031 Art 55 719
membership------------ 59 Stat. 1031 Art 61 720
trade restrictions---- TIAS 1700 Art 23 200
trusteeship system---- 59 Stat. 1031 Art 91 727
voting---------------- 59 Stat. 1031 Art 67 722
economic relations--------- 59 Stat. 1031 Art 50 718
educational and cultural
materials
privileges and
immunities---------- 17 UST 1578 Art 15 210
FAO
(see FAO)
financing
in arrears------------ 59 Stat. 1031 Art 19 712
fishing disputes------------ 17 UST 138 Art 9 1025
General Assembly
arms control---------- 59 Stat. 1031 Art 11 710
budget---------------- 59 Stat. 1031 Art 17 711
Economic and Social
Council------------- 59 Stat. 1031 Art 60 720
functions------------- 59 Stat. 1031 Art 10-17 710
important questions--- 59 Stat. 1031 Art 18 712
international
cooperation--------- 59 Stat. 1031 Art 55 719
meetings-------------- 59 Stat. 1031 Art 20 712
membership------------ 59 Stat. 1031 Art 9 710
procedure------------- 59 Stat. 1031 Art 20-22 712
reports--------------- 59 Stat. 1031 Art 15 711
settling disputes----- 59 Stat. 1031 Art 35 715
studies initiated by-- 59 Stat. 1031 Art 13 711
suspending members---- 59 Stat. 1031 Art 5-6 709
Trusteeship Council--- 59 Stat. 1031 Art 86-91 726
trusteeship duties---- 59 Stat. 1031 Art 16 711

		Page
U.N.--Continued		
trusteeship system----	59 Stat. 1031 Art 85	726
voting---------------	59 Stat. 1031 Art 18-19	712
General Assembly and Security Council--------	59 Stat. 1031 Art 10-12	710
	59 Stat. 1031 Art 15	711
	59 Stat. 1031 Art 24	713
general review conference--	59 Stat. 1031 Art 109	730
Genocide Convention--------	G.A. Res. 260	785
headquarters		
disposition of land---	TIAS 1899 Sec 22	756
human rights---------	TIAS 1899 Sec 19	756
immigration----------	TIAS 1899 Sec 11-14	752
inviolability of------	TIAS 1899 Sec 9	752
liquidation of-------	TIAS 1899 Sec 3	750
location of----------	TIAS 1899 Annex 1	758
maintenance----------	TIAS 1899 Annex 2	758
non-discrimination at-	TIAS 1899 Sec 19	756
public services to----	TIAS 1899 Sec 17	755
regulations for-------	TIAS 1899 Sec 8	751
	TIAS 1899 Sec 10	752
removal of-----------	TIAS 1899 Sec 23-24	757
supplemental agreements with U.S.	TIAS 1899 Sec 20-21	756
travel to------------	TIAS 1899 Sec 11	752
U.S. Federal Federal-State relations----------	TIAS 1899 Annex 2	758
U.S. jurisdiction over	TIAS 1899 Sec 7-10	751
U.S. protection of----	TIAS 1899 Sec 11	752
	TIAS 1899 Sec 16-18	755
visitors to----------	TIAS 1899 Sec 14	754
human rights declaration---	G.A. Res. 217	780
international cooperation--	59 Stat. 1031 Art 55-60	719
international organizations relations with-------	59 Stat. 1031 Art 71	722
laissez-passer------------	21 UST 1418 Sec 24-28	766
legal capacity-----------	59 Stat. 1031 Art 104	728
membership---------------	59 Stat. 1031 Art 3-6	709
admission of---------	59 Stat. 1031 Art 4	709
contributions by------	59 Stat. 1031 Art 19	712
important questions---	59 Stat. 1031 Art 18	712
suspension of--------	59 Stat. 1031 Art 5-6	709
Middle East conflict------	S.C. Res. 67-242	879
cease-fire resolution-	S.C. Res. 73-338	880
Military Staff Committee--	59 Stat. 1031 Art 45-47	717
mutual defense (see also U.N., regional agreements)	59 Stat. 1031 Art 42-51	717
nuclear war----------	TIAS 7654	92
Security Council-----	TIAS 1964 Art 5	857
	TIAS 2529 Art 4	862
	TIAS 2493 Art 4	864
special agreements----	59 Stat. 1031 Art 43	717
	59 Stat. 1031 Art 106	728
non-self-governing territories------------	59 Stat. 1031 Art 73-74	723
applicability of treaties----------	17 UST 1578 Art 14	209
nuclear war--------------	TIAS 7654 Art 5-6	93
Nuclear weapons Non-Proliferation Treaty-----------	TIAS 6839 Art 10	38
obligations--------------	59 Stat. 1031 Art 4	709
organs-------------------	59 Stat. 1031 Art 7-8	709
outer space--------------	TIAS 6347 Art 3	1065
	TIAS 6347 Art 11	1065
	19 UST 7570	1070
postal service-----------	TIAS 1899 Sec 6	751
principles---------------	59 Stat. 1031 Art 2	708
privileges and immunities--	TIAS 1899 Sec 26	757
communications-------	21 UST 1418 Sec 9-10	763
juridical-----------	21 UST 1418 Sec 1	761
property------------	21 UST 1418 Sec 2-8	761
representatives of members-----------	21 UST 1418 Sec 11-16	763
reservations (U.S.)---	21 UST 1418 *	769
resident representatives-----	TIAS 1899 Sec 15	754
settling of disputes--	21 UST 1418 Sec 29	767
U.N. officials-------	21 UST 1418 Sec 17-21	764
waiver of----------	21 UST 1418 Sec 14	764
	21 UST 1418 Sec 20	765
	21 UST 1418 Sec 23	766
purposes of--------------	59 Stat. 1031 Art 1	707
radio facilities----------	TIAS 1899 Sec 4	750
	TIAS 1899 Annex 2 Sec 2	758
refugees (see United Nations		

		Page
U. N.--Continued		
High Commissioner for Refugees)		
regional agencies----------	59 Stat. 1031 Art 52-54	719
regional agreements----------	59 Stat. 1031 Art 51-54	718
Alliance for Progress-	DSB 61-463 Title 2 Ch 4	847
	DSB 61-463 Title 2 Ch 5	848
ANZUS----------------	TIAS 2493 Art 1	863
	TIAS 2493 Art 6	864
NATO----------------	TIAS 1964 Art 1	856
	TIAS 1964 Art 12	858
OAS----------------	TIAS 2361 Art 1-2	805
	TIAS 2361 Art 23	808
	TIAS 2361 Art 91	821
Rio Treaty of 1947----	TIAS 1838 Art 7	799
SEATO----------------	TIAS 3170 Art 5	869
	TIAS 3170 Art 1	871
relation to OAS----------	TIAS 2361 Art 137	830
right of self-defense------	59 Stat. 1031 Art 51	718
	TIAS 1838 Art 3	798
	TIAS 1838 Art 7	799
sea law		
conference on----------	17 UST 138 B	1029
Secretariat----------------	59 Stat. 1031 Art 101	728
Secretary-General----------	59 Stat. 1031 Art 97-101	728
authority over headquarters----------	TIAS 1899 Sec 20-21	756
GATT meetings----------	TIAS 1700 Art 25	283
Security Council		
aggressions----------	59 Stat. 1031 Art 39-51	716
aided by Military Staff Committee------	59 Stat. 1031 Art 26	714
arms control----------	59 Stat. 1031 Art 26	714
cease-fire resolutions	S.C. Res. 73-338	880
functions------------	59 Stat. 1031 Art 24-27	713
meetings------------	59 Stat. 1031 Art 28	714
membership------------	59 Stat. 1031 Art 23	713
Middle East conflict--	S.C. Res. 67-242	879
military agreements---	59 Stat. 1031 Art 43	717
	59 Stat. 1031 Art 106	728
Military Staff Committee------------	59 Stat. 1031 Art 45-47	717
nonmembers------------	59 Stat. 1031 Art 31-32	715
procedure------------	59 Stat. 1031 Art 23-32	713
recommending suspension of members------------	59 Stat. 1031 Art 5-6	709
regional agreements---	59 Stat. 1031 Art 51	718
	TIAS 1838 Art 3	798
	TIAS 1838 Art 7	799
reports----------------	59 Stat. 1031 Art 15	711
settling disputes------	59 Stat. 1031 Art 33-38	715
trusteeship system----	59 Stat. 1031 Art 83-84	725
voting----------------	59 Stat. 1031 Art 18	710
	59 Stat. 1031 Art 27	714
specialized agencies-------	59 Stat. 1031 Art 57-59	720
	59 Stat. 1031 Art 63-64	721
non-self-governing territories----------	59 Stat. 1031 Art 73	723
participation in Economic and Social Council------------	59 Stat. 1031 Art 70	722
trusteeship system----	59 Stat. 1031 Art 91	727
trade		
less developed countries----------	TIAS 1700 Art 36	290
	TIAS 1700 Art 38	293
transitional security arrangements------------	59 Stat. 1031 Art 107	729
	59 Stat. 1031 Art 106	729
travel documents (see U.N., laissez-passer)		
treaties------------------	59 Stat. 1031 Art 103	728
	59 Stat. 1031 Art 102	728
treaties mentioned in		
U.S.-Japan------------	TIAS 4509 Art 1	872
	TIAS 4509 Art 7	873
	TIAS 4509 Art 10	874
U.S.-Korea------------	TIAS 3097 Art 1	866
U.S.-Philippines------	TIAS 2529 Art 1	861
	TIAS 2529 Art 6	862
Trusteeship Council--------	59 Stat. 1031 Art 86	726
functions------------	59 Stat. 1031 Art 87-88	726
procedure------------	59 Stat. 1031 Art 90-91	727
reports------------	59 Stat. 1031 Art 88	726
voting------------	59 Stat. 1031 Art 89	727
trusteeship system--------	59 Stat. 1031 Art 75-91	724
administration--------	59 Stat. 1031 Art 81	725

Page
U.N.--Continued
Economic and Social
Council------------- 59 Stat. 1031 Art 91 727
General Assembly------ 59 Stat. 1031 Art 85 726
objectives of--------- 59 Stat. 1031 Art 76 724
Security Council------ 59 Stat. 1031 Art 83-84 725
specialized agencies-- 59 Stat. 1031 Art 91 727
strategic areas------- 59 Stat. 1031 Art 82-83 725
59 Stat. 1031 Art 85 726
territories included-- 59 Stat. 1031 Art 77-73 724
U.S. national emergency---- 15 FR 9029 795
World Court
(see World Court)
U.S. Information and
Educational Exchange Act of
1948
functions transferred------ RP 53-8 Sec 2 199
U.S.S.R.
(see Soviet Union)
UNCTAD
GATT, relations with------- TIAS 1700 Art 38 293
UNESCO
importing materials-------- 17 UST 1578 Art 4 206
17 UST 1578 Art 6 207
reports--------------- 17 UST 1578 Art 12 208
settling disputes---------- 17 UST 1578 Art 7 208
Union of Soviet Socialist
Republic
(see Soviet Union)
United Nations
(see U.N.)
United Nations Conference on
Trade and Development
(see UNCTAD)
United Nations Educational,
Scientific and Cultural
Organization
(see UNESCO)
United Nations High Commission
for Refugees
cooperation with----------- 19 UST 6223 Art 2 175
19 UST 6260 Art 35 190
United Nations Monetary and
Financial Conference
(see Bretton Woods)
United States Information
Agency
(see USIA)
United States Trade
Representative, Office of---- RP 3 223
Universal Declaration of Human
Rights---------------------- G.A. Res. 217 780
USIA
(see also International
Communication Agency)
transfer of functions to--- RP 53-8 Sec 2 199

V

Venue
(see Courts, venue)
Visas
refugees------------------- 19 UST 6260 Para. 1-16 194
19 UST 6260 Para. 10 195
to U.N.-------------------- TIAS 1899 Sec 13 753
U.N. business-------------- 21 UST 1418 Sec 25-26 766
Visual and auditory materials
(see Educational and
cultural exchange,
importing materials)

W

War Crimes
refugees not aided--------- 19 UST 6260 Art 1 180
War powers
(see also
Commander-in-Chief,
powers)
(see also National
emergency)
Wheat
Advisory Sub-Committee on
Market Conditions------- 22 UST 820 Art 16 339
consultations-------- 22 UST 820 Art 6 334
defined-------------- 22 UST 820 Art 2(1)(g) 330
availability--------------- 22 UST 820 Art 5 333
commercial purchases------- 22 UST 820 Art 3(1) 331
concessional transactions-- 22 UST 820 Art 9 335

			Page
Wheat--Continued			
consultations on market conditions	22 UST 820	Art 6	334
defined	22 UST 820	Art 2(1)(1)	330
disputes	22 UST 820	Art 7	336
international cooperation	22 UST 820	Art 1	330
International Wheat Council (see International Wheat Council)			
prices	22 UST 820	Art 21	341
sales			
reporting	22 UST 820	Art 4	332
special transactions	22 UST 820	Art 3(2)	331
world situation			
annual review	22 UST 820	Art 8	335
Wheat Trade Convention, 1971	22 UST 820		329
objectives	22 UST 820	Art 1	330
Protocol for the Further Extension of (1983)	Treaty Doc. 98-5		352
withdrawal from	22 UST 820	Art 27(5)	342
World Bank			
(see also IDA)			
articles of agreement			
amended	TIAS 1503	Art 8	454
interpreted	TIAS 1503	Art 9	456
capital stock	TIAS 1503	Art 2 Sec 2	436
divisons and calls of subscribed capital	TIAS 1503	Art 2 Sec 5	437
issue price of shares	TIAS 1503	Art 2 Sec 4	437
liability limited	TIAS 1503	Art 2 Sec 6	437
maintaining value of certain currency holdings	TIAS 1503	Art 2 Sec 9	438
payment of subscription for shares	TIAS 1503	Art 2 Sec 7	437
restricting disposal of shares	TIAS 1503	Art 2 Sec 10	438
shares subscribed	TIAS 1503	Art 2 Sec 3	436
time of payment	TIAS 1503	Art 2 Sec 8	437
currencies			
availability and transferability of	TIAS 1503	Art 4 Sec 2	440
provisions of	TIAS 1503	Art 4 Sec 3	441
default payments	TIAS 1503	Art 4 Sec 7	443
executive directors			
election of	TIAS 1503	Schedule B	457
guarantees	TIAS 1503	Art 4 Sec 5	443
IFC relations with	TIAS 3620	Art 4 Sec 6	467
immunities			
archives	TIAS 1503	Art 7 Sec 5	452
assets	TIAS 1503	Art 7 Sec 4	452
from taxes	TIAS 1503	Art 7 Sec 9	453
international organizations relations with	TIAS 1503	Art 5 Sec 8	448
loans and guarantees			
conditions	TIAS 1503	Art 3 Sec 4	439
dealings	TIAS 1503	Art 3 Sec 2	439
limitations on	TIAS 1503	Art 3 Sec 3	439
resources used	TIAS 1503	Art 3 Sec 1	438
to IFC	TIAS 1503	Art 3 Sec 6	440
used for	TIAS 1503	Art 3 Sec 5	439
loans facilitated	TIAS 1503	Art 4 Sec 1	440
membership			
suspension	TIAS 1503	Art 6 Sec 1,2	449
	TIAS 1503	Art 6 Sec 5	451
termination	TIAS 1503	Art 6 Sec 3,4	450
operations			
miscellaneous	TIAS 1503	Art 4 Sec 8	444
organization	TIAS 1503	Art 5 Sec 1	445
advisory council	TIAS 1503	Art 5 Sec 6	447
allocating income	TIAS 1503	Art 5 Sec 14	449
Board of Governors	TIAS 1503	Art 5 Sec 2	445
executive directors	TIAS 1503	Art 5 Sec 4	446
form of holdings of currency	TIAS 1503	Art 5 Sec 12	448
loan committees	TIAS 1503	Art 5 Sec 7	447
location of offices	TIAS 1503	Art 5 Sec 9	448
member banks	TIAS 1503	Art 5 Sec 11	448
president	TIAS 1503	Art 5 Sec 5	447
regional offices and councils	TIAS 1503	Art 5 Sec 10	448
reports	TIAS 1503	Art 5 Sec 13	449
staff	TIAS 1503	Art 5 Sec 5	447
voting	TIAS 1503	Art 5 Sec 3	446
payment provisions	TIAS 1503	Art 4 Sec 4	442
political activity prohibited	TIAS 1503	Art 4 Sec 10	444
privileges and immunities	TIAS 1503	Art 7	452
communications	TIAS 1503	Art 7 Sec 7	453

		Page
World Bank--Continued		
judicial process	TIAS 1503 Art 7 Sec 3	452
of personnel	TIAS 1503 Art 7 Sec 8	453
purposes	TIAS 1503 Art 1	435
shares		
capital stock	TIAS 1503 Art 2 Sec 1	436
special reserve	TIAS 1503 Art 4 Sec 6	443
warning on securities	TIAS 1503 Art 4 Sec 9	444
World Court		
advisory opinions	59 Stat. 1031 Art 96	727
	59 Stat. 1055 Art 65-68	743
	21 UST 1418 Sec 30	767
U.N. headquarters	TIAS 1899 Sec 21	756
amendments	59 Stat. 1055 Art 69-70	744
amicus curiae	59 Stat. 1055 Art 62	743
Central America		
jurisdiction	Letter	747
	Letter	748
chambers formed	59 Stat. 1055 Art 26-29	736
costs	59 Stat. 1055 Art 64	743
counsel before	59 Stat. 1055 Art 42	740
default judgments	59 Stat. 1055 Art 53	741
deliberations	59 Stat. 1055 Art 54	742
equity	59 Stat. 1055 Art 38	739
expenses	59 Stat. 1055 Art 33	738
hearings	59 Stat. 1055 Art 45-49	741
	59 Stat. 1055 Art 51-52	741
importing materials	17 UST 1578 Art 9	208
international organizations relations with	59 Stat. 1055 Art 38	739
interpreting law	59 Stat. 1055 Art 60	742
	59 Stat. 1055 Art 63	743
judges		
allowances	59 Stat. 1055 Art 32	737
conflicts of interest	59 Stat. 1055 Art 16-17	735
dismissal of	59 Stat. 1055 Art 18	735
election of	59 Stat. 1055 Art 8	733
	59 Stat. 1055 Art 10-12	733
nationality	59 Stat. 1055 Art 2-6	732
	59 Stat. 1055 Art 31	737
nominated	59 Stat. 1055 Art 4-7	732
oath of office	59 Stat. 1055 Art 20	735
privileges and immunities	59 Stat. 1055 Art 19	735
qualification	59 Stat. 1055 Art 2	732
	59 Stat. 1055 Art 9	733
term of office	59 Stat. 1055 Art 13-15	734
judgments	59 Stat. 1055 Art 53-61	741
binding force of	59 Stat. 1055 Art 59	742
review of	59 Stat. 1055 Art 61	742
jurisdiction	59 Stat. 1055 Art 36	738
Connally Reservation	TIAS 1598 B	745
modification of Truman Declaration	Letter	747
Truman Delcaration	TIAS 1598	746
law applicable	59 Stat. 1055 Art 38	739
legal competence of	59 Stat. 1055 Art 34-38	738
location	59 Stat. 1055 Art 22	736
	59 Stat. 1055 Art 28	737
membership	59 Stat. 1031 Art 93-94	727
official languages of	59 Stat. 1055 Art 39	739
organization of	59 Stat. 1055 Art 2-33	732
parties before	59 Stat. 1055 Art 35	738
Permanent Court of Arbitration	59 Stat. 1055 Art 4-5	732
privileges and immunities of U.N.	21 UST 1418 Sec 30	767
procedures	59 Stat. 1055 Art 21-31	735
	59 Stat. 1055 Art 39-64	739
provisional measures	59 Stat. 1055 Art 41	740
purpose of	59 Stat. 1031 Art 92	727
	59 Stat. 1055 Art 1	732
refugee relief	19 UST 6223 Art 4	175
dispute settlement	19 UST 6260 Art 38	191
voting	59 Stat. 1055 Art 55	742